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Revised Administrative Measures for Organic Product Certification

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Approved By:

Michael Riedel

Prepared By:

Ryan Scott and Wu Bugang

Report Highlights:

On November 20, 2013, China's General Administration for Quality Supervision, Inspection and Quarantine (AQSIQ) announced its revised Administrative Measures for Organic Product Certification. These revised measures will be implemented starting April 1, 2014, and are applicable to China's domestic certification, production, processing, importing and sales of organic products. Noticeable changes include, but are not limited to, that the content of organic ingredients must be equal to or above 95 percent and that the term "organic" must be listed on the product package and label.

The original document can be found at:

www.aqsii.gov.cn/xxgk_13386/jlgg_12538/zjl/2013/201311/t20131120_387865.htm

Administrative Measures for Organic Product Certification

Chapter I General Provisions

Article 1 For the purposes of maintaining the legitimate rights and interests of producers, sellers and consumers, further enhancing the quality of organic products, strengthening the management of organic certification, and promoting ecological and environmental preservation and sustainable development, these Measures are formulated in accordance with the provisions of laws and administrative regulations including the Law of the people's Republic of China on Product Quality, the Law of the People's Republic of China on Import and Export Commodity Inspection, as well as the Regulation of the People's Republic of China on Certification and Accreditation.

Article 2 Those who are engaged in activities of organic certification and production, processing and sales of certified organic products within the territory of the People's Republic of China shall abide by these Measures.

Article 3 Organic products defined in these Measures refer to the products for human and animal consumption where production, processing and marketing activities are in line with the China National Standards for Organic Products.

Organic certification defined in these Measures refers to the conformity assessment activities where certification bodies, based on the provisions of these Measures and organic certification rules, prove that the production, processing and marketing activities of related products are in line with the China National Standards for Organic Products.

Article 4 The Certification and Accreditation Administration of the People's Republic of China (hereinafter referred to as CNCA) shall be responsible for the unified management, supervision and overall coordination of organic certification activities at the national level.

The local quality and technical supervision departments and the entry-exit inspection and quarantine agencies (hereinafter collectively referred to as the local certification supervisory departments) shall, in accordance with their respective functions and duties, be responsible for supervision and inspection as well as law enforcement over the organic certification activities within their jurisdiction.

Article 5 The nation shall pursue the unified organic certification system and implement a unified certification catalogue, unified standards and certification rules, and the unified certification label.

CNCA shall be responsible for the formulation and adjustment of the organic product certification catalogue and certification rules, as well as their publication.

Article 6 The nation shall, in accordance with the principle of equality and mutual benefits, carry out international cooperation on organic certification.

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The mutual recognition arrangements on organic certification shall be conducted within the framework of international cooperation agreements signed by CNCA with foreign countries.

Chapter II Certification Implementation

Article 7 The organic certification body (hereinafter referred to as the certification body) shall be approved by CNCA and obtain the legal person status in accordance with the law, before it can engage in organic certification activities.

Capabilities of the certification body for carrying out certification activities shall comply with the requirements of relevant national standards for the certification body.

Inspectors engaged in inspection activities of organic certification shall register at the national registration authority for auditors before carrying out inspection activities of organic certification.

Article 8 Producers and processors of organic products (hereinafter collectively referred to as the client), may voluntarily entrust the certification body for organic certification, and submit the application materials specified in the organic certification implementation rules.

The certification body shall not accept a certification request from the client for products that do not comply with the nation's environmental requirements for organic production origin or that the products are not listed in the organic certification catalogue.

Article 9 The certification body shall complete the materials audit within ten days upon receiving the application materials from the client, and make a decision whether or not to accept the application. For the application not to be accepted, the certification body shall notify the client with reasons in writing.

The certification body shall submit the basic information such as the client and the certification inspection program to the information system determined by CNCA within five days prior to performing the on-site inspection to the client.

Article 10 After accepting the entrusting of certification, the certification body shall ask the certification inspector to conduct on-site inspection of the production and processing establishments for organic products in accordance with the organic certification implementation rules, and shall entrust an inspection/testing institution with statutory qualifications to inspect and test products applying for certification.

In accordance with the provisions of the organic product certification implementation rules, where it is necessary to conduct environmental monitoring (testing) of places of production (bases), the monitoring (testing) institution with statutory qualifications shall issue a monitoring (testing) report, or accept other legitimate and valid environmental monitoring (testing) conclusions provided by the client.

Article 11 For products complying with the organic certification requirements, the certification body shall issue an organic certificate to the client in a timely fashion, allowing him to use the Chinese

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organic product label; for products failing to comply with the certification requirements, the certification body shall notify the client with reasons in writing.

The certification body and certification personnel shall be responsible for their certification conclusions.

Article 12 The certification body shall ensure the integrity, objectiveness and truthfulness of the certification process, and make a complete record for archive retention to ensure that the certification process and the results are traceable.

The product inspection/testing and environmental monitoring (testing) institutions shall ensure the truthfulness and accuracy of the inspection/testing and monitoring conclusions, and make a complete record of the inspection/testing and monitoring process for archive retention. Product inspection/testing and environmental monitoring institutions and their personnel shall be responsible for the content and conclusions of their inspection/testing and monitoring reports.

The record retention period stipulated under this Article is five years.

Article 13 The certification body shall, in accordance with the provisions of the certification implementation rules, implement effective follow-up inspection of the certified products and their production and processing processes to ensure that the certification conclusions can continue to meet the certification requirements.

Article 14 The certification body shall issue an organic product sales permit to the client in a timely fashion to guarantee that the category, scope and quantity of organic products sold by the client are in conformity with that stated in the certificate.

Article 15 Processed products with the content of organic ingredients (referring to weight or liquid volume, not including water and salt) no less than 95% can indicate the language of “organic” on the product or on the package or label of the product after it has received the organic certification.

Article 16 The certification body shall not carry out organic certification for processed products with the content of organic ingredients less than 95%.

Chapter III Import of Organic Products

Article 17 The competent authority for organic products of the country or region exporting organic products to China may submit an application to CNCA for equivalency assessment of the organic certification system. CNCA shall accept the application and organize relevant experts to assess the submitted application.

The assessment can be conducted through document review and site inspection.

Article 18 In case the organic product certification system in the country or region exporting organic products to China is equivalent to China's organic certification system, CNCA may sign a relevant

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MOU with the country or region's competent authority.

The country or region's organic products exporting to China shall be managed in accordance with the provisions of the relevant MOU.

Article 19 For products intended to export to China from the country or region that has not signed a relevant MOU on the equivalency of organic certification system with CNCA, they shall comply with China's laws and regulations on organic products as well as the requirements of China's national organic standards.

Article 20 Producers, sellers, importers or agents of imported products that need to get China's organic certification (hereinafter collectively referred to as the imported organic product client) shall submit a certification application to the certification body approved by CNCA.

Article 21 The imported organic product certification client shall, in accordance with the provisions of the organic product certification implementation rules, submit to the certification body the relevant application information and documents, of which certification application materials and documents such as application form, questionnaire, process flow, product formula as well as inputs used in the production and processing shall be accompanied by a Chinese-language version. For application materials that do not meet the requirements, the certification body shall not accept their certification applications.

When engaged in imported organic product certification activities, the certification body shall comply with the provisions of these Measures and the organic certification implementation rules. The certification inspection records and inspection reports shall have a Chinese version.

Article 22 When applying for inspection and quarantine for imported organic products, it is necessary to submit documents such as the copies of a Chinese organic certificate, a sales permit of organic product, certification logo and product label.

Article 23 All local entry-exit inspection and quarantine agencies shall conduct entry verification for imported organic products, inspect documents such as the copies of the certificate and sales permit of organic product, certification logo and product label, and verify whether the products are in conformity with the certificate. If the product does not conform to the certificate, the product shall not be imported as organic product.

When necessary, the entry-exit inspection and quarantine agency can perform sampling inspection for the imported organic products, verifying whether product quality complies with the requirements of China's national organic standards.

Article 24 The certification body shall submit to CNCA in writing the following materials within 30 days after it has issued an organic certificate to the imported organic product certification client:

- 1) the category, scope and quantity of certified products;
- 2) name, address and contact information of the imported organic product certification client;
- 3) name, address and contact information of the certified product producer and importer;

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- 4) a copy of the certificate and the inspection report (in the Chinese and foreign language versions);
- 5) Other materials required by CNCA.

Chapter IV Certificate and Certification Label

Article 25 CNCA is responsible for formulating the basic format and numbering rules of the organic certificate and the style and numbering rules of the certification label.

Article 26 The certification certificate is valid for one year.

Article 27 The certificate shall include the following:

- 1) name and address of the client;
- 2) name and address of the producer or processor of the certified product and name and address of product origin (base);
- 3) the quantity of the certified products, area of product origin (base) and product category;
- 4) the certification category;
- 5) referenced national standards or technical specifications;
- 6) name of the certification body and the signature of the person in charge, the issue date of the certificate and its validation.

Article 28 In one of the following situations, the client shall apply to the certification body for a change within 15 days when the certificate remains valid. The certification body shall make the change to the certificate within 30 days upon receipt of an application for a change to the certificate:

- 1) a change of the client, the name of organic producer or processor, or the nature of the legal person;
- 2) a decrease of product category and quantity;
- 3) Other circumstances that require a change.

Article 29 In one of the following circumstances, the certification body shall cancel the certificate within 30 days and make it public:

- 1) The certificate expires without application for a renewal;
- 2) The certified products are no longer in production;
- 3) The client of the certified product applies for a cancellation;
- 4) Other circumstances that require cancellation of the certificate.

Article 30 In one of the following circumstances, the certification body shall suspend the certificate (for one to three months) within 15 days and make it public:

- 1) failure to use the certificate or certification label according to regulations;
- 2) the production, processing, marketing activities or the management system of the certified products do not comply with the certification requirements and effective correction action or measures can be made during the said suspension as assessed by the certification body;
- 3) Other circumstances that require a suspension of the certificate.

Article 31 In one of the following circumstances, the certification body shall, within seven days, revoke the certificate and make it public:

- 1) the quality of the certified products does not comply with the relevant national laws, regulations and the mandatory requirements, or substances that are prohibited in the National Standards for

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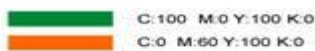
Organic Products are detected;

- 2) in production and processing activities, the certified products use substances prohibited in the National Standards for Organic Products, or are polluted by the prohibited substances;
- 3) the client of the certified products falsely reports and conceals information in order to get the certificate;
- 4) the client of the certified products uses the certification mark beyond the scope;
- 5) the environmental quality of production location (base) of the certified products does not meet the certification requirements;
- 6) production, processing, and marketing activities or the management system of the certified products does not meet the certification requirements and fails to take effective correction actions or measures during the suspension;
- 7) re-processing, repackaging and dividing of the certified products happens outside the production and processing establishments indicated in the certificate;
- 8) the client of the certified products fails to make corrections to major problems as complained by the relevant party ;
- 9) the client of the certified products has been penalized by the relevant administrative punishment for the violating the laws and regulations regarding the safety of agricultural products and food;
- 10) the client of the certified products refuses to accept the supervision of the certification regulatory department or the certification body;
- 11) Other circumstances that require the certificate revocation.

Article 32 The certification label of organic products is the certification label of the Chinese organic products.

The certification label of Chinese organic products contains the language of "Chinese Organic Product" in Chinese and "ORGANIC" in English.

The label is as follows:



Article 33 The certification label of Chinese organic product shall be used within the scope and quantity as defined in the certificate.

The certification body shall, in accordance with the unified numbering rules by CNCA, provide each certification label with a unique number (hereinafter referred to as organic code), and adopt effective anti-counterfeiting and traceability technology to ensure each certification label issued can be traced

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to the corresponding certificate, certified products and their production and processing establishments.

Article 34 The client of certified products shall put the certification label of Chinese organic products and its organic code as well as the name of the certification body on the certified products or their smallest sales packages.

The certification label of Chinese organic product can be printed on the labels, brochures and advertising materials, and can be proportionally enlarged or reduced, but shall not be deformed or discolored.

Article 35 In one of the following circumstances, no organization or individual shall indicate the language or design containing “organic” (in Chinese or English) on the products, their smallest packages, or labels that may mislead the public to the concept of organic products:

- 1) No organic certification is obtained;
- 2) Re-processing, repacking and division of the certified products happens outside the production and processing establishments indicated in the certificate

Article 36 During the suspension, the client of certified products shall suspend the use of the certificate and certification label; in case the certificate is cancelled or revoked, the client shall return the certificate and unused certification labels to the certification.

Chapter V Supervision and Management

Article 37 CNCA shall organize the implementation of annual supervision and inspection as well as irregular special supervision and inspection over organic certification activities.

Article 38 Local certification regulatory departments shall, in accordance with their respective responsibilities, supervise and inspect the organic certification activities within their jurisdiction in accordance with the law, and investigate and punish illegal acts in the production, processing and marketing activities of the certified organic products.

Local entry-exit inspection and quarantine agencies shall be responsible for the supervision and inspection of foreign-invested certification bodies, certification and sales of imported organic products, as well as certification, production, processing and sales activities of exported organic products.

The local quality and technical supervision departments shall supervise and inspect Chinese-funded certification bodies as well as certification, production, processing and sales activities of organic products that are produced, processed and sold in the Chinese territory

Article 39 The supervision and inspection methods of local certification regulatory departments include:

- 1) supervision and inspection on whether the certification activities are in breach of these Measures

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and the organic certification implementation rules;

- 2) supervision and spot checks of certified products;
- 3) supervision and inspection on certification bodies, producers, processors, importers and marketers;
- 4) supervision and inspection on organic certificates and certification labels;
- 5) supervision and inspection on whether consulting activities of organic product certification are in line with the relevant provisions;
- 6) investigation and handling of reports against organic certification and certification consulting activities;
- 7) Handling of violations in accordance with the law.

Article 40 CNCA shall regularly publish dynamic information about organic certification through the information system.

Prior to the issuance of the certificate, the certification body shall submit to the information system the relevant information on organic certification in a timely manner, and obtain a certificate number.

Prior to the issuance of the certification labels, the certification body shall upload the relevant information on the certification labels and organic codes to the information system.

The local certification regulatory department shall conduct supervision and inspection through the information system on organic certification activities within their jurisdiction, based on the submitted and uploaded information by the certification body through the information system.

Article 41 The client of certified products and organic product marketing organizations and individuals shall, in the course of production, processing, packaging, transport, storage and marketing, establish a complete traceability system for product quality and safety and the archival system for production, processing and marketing records.

Article 42 Marketing organizations and individuals of organic products shall, in the activities of procurement, storage, transport and marketing of organic products, comply with the provisions of the National Standards for Organic Products, guarantee that the category, scope and quantity of organic products are consistent with the category, scope and quantity described in the sales permit, and can provide copies of the certificate and the organic product sales permit that reflect the same content of the originals, in case of inquiries by the relevant administrative supervision departments or consumers.

Article 43 Based on such information as risk alerts on animal or diseases or environmental pollutions released by relevant government agencies, supervision and inspection results, consumer complaints, and media reports, the certification regulatory department shall release information on certification risk alerts related to the certified organic areas, certified products and their clients and the certification bodies in a timely fashion, and take corresponding actions.

Article 44 In case the client of certified products provides false information, illegally uses banned substances, or uses the organic certification labels beyond the scope, or a major accident of product quality and safety occurs, the certification body shall not accept an application for organic certification by the particular enterprise (including its production bases and processing establishments) within five years.

Article 45 In case the client disagrees with the certification body's certification conclusion or handling decision, it may appeal to the certification body. If the client still disagrees with the certification body's handling conclusion, it may appeal to CNCA.

Article 46 Any organization or individual may report to CNCA or local certification regulatory departments on violations in organic certification activities. CNCA or local certification regulatory departments shall investigate and handle the case in a timely manner, and keep secret of the informant.

Chapter VI Penalties

Article 47 The local certification regulatory department shall punish those who forge, fraudulently use or illegally trade in certification labels, in accordance with the provisions of laws and administrative regulations, such as the Law of the People's Republic of China on Product Quality, and the Law of the People's Republic of China on Import and Export Commodity Inspection and their implementing regulations.

Article 48 For those who forge, alter, fraudulently use, illegally trade, transfer, or obliterate the certificate, the local certification regulatory department shall order them for corrections and impose a fine of RMB 30,000.

In violation of the provisions of Paragraph 2 of Article 40 of these Measures, it is considered a certificate forgery if the certification body numbers their certificates by itself.

Article 49 In violation of the provisions of Paragraph 2 of Article 8 of these Measures that the certification body issues certificates to clients for products whose production areas do not comply with the environmental requirements or for products outside the organic product catalogue, the certification body shall be ordered to make corrections and be subject to a fine of RMB 30,000. The illegal gains shall be confiscated.

Article 50 In violation of the provisions of Article 35 of these Measures where the language like "organic" (in Chinese or English) is applied to products, product packages or labels that may mislead the public to the concept of organic products, the local certification regulatory department shall order a correction and impose a fine of no more than RMB 30,000.

Article 51 In one of the following circumstances, CNCA shall warn the certification body, urge for a correction, and make it public:

- 1) (The certification body) fails to upload the organic label and code to the information system determined by CNCA as required in the provisions of Paragraph 2 of Article 40 of these Measures;
- 2) Fails to submit the relevant certification information to the information system determined by CNCA or submits inaccurate information as required in the provisions of Paragraph 2 of Article 9 of these Measures;
- 3) Fails to provide relevant materials to CNCA for record as required in the provisions of Article 24.

Article 52 In violation of the provisions of Article 14 of these Measures that the number of sales

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permits for organic products issued by the certification body is greater than the actual quantity of organic products produced or processed by the client, it shall be ordered a correction and be fined between RMB 10,000 and RMB 30,000.

Article 53 In violation of the provisions of Article 16 of these Measures that the certification body conducts organic certification for processed products with the content of organic ingredients less than 95%, the local certification regulatory department shall order a correction and impose a fine of no more than RMB 30,000.

Article 54 In case the certification body fails to suspend or revoke the certificate and make it public as required by Articles 30 and 31 of these Measures, it shall be punished in accordance with the provisions of Article 60 of the Regulations of the People's Republic of China on Certification and Accreditation.

Article 55 In one of the following circumstances, the local certification regulatory department shall order the client to make a correction and shall impose a fine between RMB 10,000 to RMB 30,000:

- 1) processed products that have not obtained organic certification but labelled as organic products in violation of Articles 15;
- 2) inadequate use of certification labels as stipulated in the provisions of Paragraph 1 of Article 33 or Article 34;
- 3) Continued use of the certificate or certification labels during the suspension of the certificate or after cancelation or revocation of the certificate.

Article 56 In the event that a certification body or client of certified products refuses to accept supervision and inspection by CNCA or the local certification regulatory department, it shall be ordered a correction in due course; if a correction is not made in time, a fine of no more than RMB 30,000 shall be imposed.

Article 57 If the client does not provide truthful information about the imported organic products or achieve relevant certificates required by entry-exit inspection and quarantine agencies when performing inspection and quarantine, or the client does not apply for required inspection for the organic products or evades inspection, it shall be punished by the entry-exit inspection and quarantine agencies in accordance with Article 46 of the Implementation Regulations for the Law of the People's Republic of China on Import and Export Commodity Inspection.

Article 58 Other violations in organic certification activities shall be punished in accordance with the provisions of relevant laws, administrative regulations, and ministry regulations.

Chapter VII Supplementary Provisions

Article 59 The collection of organic certification fees shall be implemented in accordance with price-related laws and administrative regulations.

Article 60 Exported organic products shall comply with the requirements of the importing country or region.

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Article 61 Organic ingredients mentioned in these Measures refer to any substances that are used in the production or processing of organic products and exist (including the presence of a modified form) in products, including additives.

Article 62 The General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ) is responsible for interpretation of these Measures.

Article 63 These Measures shall come into force as of April 1, 2014. The Administrative Measures on Organic Product Certification issued by AQSIQ on November 5, 2004 (AQSIQ Decree No. 67) shall be abolished accordingly.