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Administrative Measures for Certification of Organic Products

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Report Highlights:

This is UNOFFICIAL translation of AQSIQ Decree No. 67 (2004) Administrative Measures for Certificate of Organic Products. Exporters should carefully study the regulation and consult with importers to make sure that their interpretation of these Measures is accurate.

Includes PSD Changes: No
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Summary

The General Administration of Quality Supervision, Inspection and Quarantine of China (AQSIQ) published on its web site (www.aqsig.gov.cn) on January 14, 2005 Decree 67 (2004) Administrative Measures for Certification of Organic Products. These Measures, which take effect as of April 1, 2005, govern certification procedures of organic products as well as production, processing, marketing, and labeling of organic products in China. The regulation also applies to imported organic products. The legislation regulates activities of organic product certification agencies. Foreign organic product certification agencies engaged in such activities in China should, in addition to these Measures, abide by the Regulation of China on Certification and Accreditation.

BEGIN TRANSLATION

Decree No. 67

November 5, 2004

The Administrative Measures for the Certification of Organic Products, which were examined and approved by the council of the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China on September 27, 2004, are hereby published for implementation as of April 1, 2005.

(signed) Minister

The Administrative Measures for the Certification of Organic Products

Chapter I General Provisions

Article 1 Based on the *Regulations of the PRC on Certification and Accreditation* and relevant laws, administrative rules, these Measures are formulated to facilitate the development of production, processing and trade of organic products, to regulate certification activities, to improve the quality of organic products and the level of management, and to protect the ecological environment.

Article 2 The organic products mentioned in these Measures refer to products for human consumption and animal feed that comply with the national standards regarding organic products in the course of production, processing, and marketing. The certification of organic products mentioned in these Measures refers to the evaluation by certification agencies on the production and processing of organic products in accordance with relevant national standards as well as these Measures.

Article 3 Certification of organic products and production, processing or marketing of organic products within the territories of the People's Republic of China shall abide by these Measures.

Article 4 Certification and Accreditation Administration of the People's Republic of China (hereinafter referred to as "CNCA") will be responsible for the management, coordination and supervision of organic product certification.

The local quality and technical supervision authorities and the entry-exit inspection and quarantine agencies (hereinafter referred to as "local certification supervision and management departments") shall supervise and inspect the certification of organic products within their respective jurisdiction according to their duties and responsibilities.

Article 5 The State shall establish a series of unified norms and principles, unified review and approval procedures, as well as unified standards and labels for the certification of organic products.

Article 6 The State shall develop international mutual recognition for certification and accreditation of organic products based on the principle of equality and mutual benefit. Any agency engaged in the certification of organic products (hereinafter referred to as organic product certification agency) shall conduct mutual recognition activities in accordance with the agreements on mutual recognition of organic product certification signed between CNCA and foreign counterparts.

Chapter II Institutional Management

Article 7 An organic product certification agency shall be a legal establishment that possesses essential requirements specified in the Regulation of the People's Republic of China on Certification and Accreditation as well as technical capacity to engage in organic product certification. It can engage in organic product certification only after it has been accredited by a CNCA authorized accreditation institution (hereinafter referred to as accreditation institution).

Foreign organic product certification agencies that engage in organic product certification activities within the territories of the People's Republic of China shall comply with the provisions of the *Regulations of the P.R. China on Certification and Accreditation* and other relevant laws, administrative rules, and these Measures.

Article 8 Inspectors engaged in organic product certification shall not conduct certification activities until they have registered by an accreditation institution.

Article 9 Testing agencies engaged in environmental tests for production place/base and product sample tests that both relate to the organic product certification (hereinafter referred to as organic product testing agencies) should be equipped with corresponding testing facilities and capacity, and should pass metrological certification or laboratory accreditation.

Article 10 CNCA shall approve organic product certification institutions that meet the requirements specified in Article 7 of these Measures.

CNCA shall publish, on a regular basis, the lists of organic product certification agencies and organic product testing agencies that comply with Articles 7 and 9 of these Measures. Certification or product testing agencies not in the lists should not conduct organic product certification and related testing.

Chapter III Implementation of Certification

Article 11 Organic product certification agencies shall abide by the national standards on organic products when certifying organic products.

Organic products to be exported shall meet the special requirements of the importing country or region.

Article 12 Organic product certification agencies shall make publicly available the information regarding the criteria on which the organic product certification is based, basic norms, rules, and fees, etc.

Article 13 Organic product producing or processing companies, individuals, or their agents (hereinafter referred to as applicants) may voluntarily submit an application for organic product certification at an organic product certification agency, together with the following written materials:

- 1) Name, address, and contact information of the applicant;
- 2) Area scope of the production place/base and production or processing scale;
- 3) Production, processing, or marketing plans;
- 4) A description of the environment for the production place/base, processing or marketing location;
- 5) Documents on the quality control system which satisfies the requirements of the production and processing of organic products;
- 6) The qualification certificates and materials about the specialized technical personnel and managerial personnel;
- 7) A statement ensuring the implementation of organic product standards, technical norms, and other special requirements, and
- 8) Other materials.

In case the applicant is not a direct organic product producer or processor, he/she should provide a written contract signed between himself/herself and an organic product producer or processor.

Article 14 An organic product certification agency should finish the examination and verification of the application materials and decide whether to accept it within 10 days after receiving a written application. In case an application is not accepted, a written notification with explanation should be issued to the applicant.

Article 15 After accepting an application, the organic product certification agency should implement certification activities in accordance with the procedures regarding the basic norms and rules of organic product certification, ensure the certification process is complete, objective, and authentic, and keep a complete record of the whole certification process.

Article 16 The organic product certification agency shall make a timely conclusion based on relevant standards or technical norms and ensure the objectiveness and authenticity of the certification conclusion.

The organic product certification agency shall be responsible for its certification conclusions.

Article 17 An organic product certification agency shall issue an organic product certificate to the applicant where a product meets the certification requirements and the applicant should be granted the right to use China organic product labels; in case the product does not meet the requirements of the organic product, the applicant should be issued a written notification with an explanation.

Article 18 Products manufactured in accordance with the national standards for organic products during a conversion period or processed products using materials produced in the conversion period should indicate "conversion" and conversion period in the certificate, and should use the labeling of conversion to organic product of China.

Article 19 The organic product certification agency shall conduct effective tracking and monitoring on certificate receiving companies or individuals and their products to ensure the certification conclusions may comply with the certification requirements sustainably.

Article 20 The organic product certification agency must not certify a processed product with organic material content (refers to weight or liquid volume, not including water and salt) less than 95%.

Article 21 Companies or individuals engaged in organic production, processing, or marketing as well as organic product certification agencies should adopt effective measures to market their organic products in line with the product scope and quantity identified by the certificate and ensure the consistence between the quantities of organic product being produced and sold.

Chapter IV Certificate and Labeling

Article 22 CNCA shall determine the basic format of the certificate and the design of the labeling for organic products.

Article 23 The certificate for organic products shall contain the following:

- 1) Name, address of the certified unit or individual;
- 2) Quantity, production area and variety of the certified product;
- 3) The category of the organic product certification;
- 4) Referenced standards and technical norms;
- 5) Application scope, quantity, usage form or pattern of the organic product labeling;
- 6) Issuing agency, date of issuance, validity period, and the signature of the responsible person; and
- 7) Organic products made during a conversion period or processed products using materials produced in a conversion period should indicate "conversion" and the conversion period.

Article 24 The certificate of organic product is valid for one year.

Article 25 In any of the following circumstances, the companies or individuals holding an organic product certificate should apply for alteration at the organic product certification agency while the certificate is valid:

- 1) Change of certified company or individual;
- 2) Change of company or individual engaged in production or processing of the organic product;
- 3) Change of the product variety, and
- 4) The conversion period of the organic product has expired and requires a renewal.

Article 26 In any of the following circumstances, the companies or individuals holding an organic product certificate should re-apply at an organic product certification agency while the certificate is still valid:

- 1) Change of the production area/base, processing place or business scope;
- 2) Other factors that prevent consistent compliance with the standards, technical norms for organic products.

Article 27 In any of the following circumstances, the organic product certification agency should make a timely decision to suspend or annul the certificate obtained by a company or individual:

- 1) The certified product does not consistently comply with relevant standards and technical norms for organic products;
- 2) Change of the certified company or individual;
- 3) Change of the company or individual engaged in production or processing of the organic product;
- 4) Product variety not in consistence with the certificate; and
- 5) Failure of attaching or using organic product labels based on regulations.

The organic product certification agency shall recall the annulled certificates.

Article 28 Certification labels for organic products in China are classified into labels for organic products and those for organic products in conversion. Refer to the Appendix for designs.

China's certification label for organic products contains the Chinese characters "China Organic Product" and the corresponding English "ORGANIC".

Organic products made during a conversion period or processed products using materials produced in a conversion period should use certificate labels for organic product in conversion. The label contains Chinese characters "China Organic Conversion Product" and the corresponding English language "CONVERSION TO ORGANIC".

Article 29 The certification labels for organic products shall be used within the product scope and quantity as specified in organic product certificate.

Companies or individuals who have obtained a certificate should apply the certification labels to the certified products or the inner packaging of the organic products according to relevant regulations.

Companies or individuals who have obtained a certificate may print the labels on the product tag, instruction manual, and advertising materials and the labels can be enlarged or shrunk proportionally without change in color or shape.

Article 30 When a certification label for organic product is applied to the product or its inner packaging, the label of organic product certification agency or agency name should be indicated next to the organic product label but the relevant designs or characters should be no greater than the organic product label.

Article 31 Products that have not obtained an organic product certificate must not use "ORGANIC", "CONVERSION TO ORGANIC", or other misleading language such as "non-polluted" and "pure natural" on the products, packages, or tags.

Article 32 Products with organic ingredient content of 95% or higher may apply a "ORGANIC" label on the products, their packages, or tags.

Products with organic ingredient content greater than 70% but less than 95% may apply a label saying "MADE FROM ORGANIC INGREDIENTS" on the products, packages, or tags.

Products with organic ingredient content of 70% or less can only indicate that a certain ingredient is "ORGANIC" in the ingredient table.

Organic ingredients are subject to organic product certification.

Article 33 When the organic product certification agency decides to suspend or annul an organic product certificate, it should, at the same time, monitor the relevant company or individual on suspension of using, sealing, or destroying the organic product label.

Chapter V Supervision and Inspection

Article 34 CNCA should organize local certification supervision and management departments and other relevant agencies for monitoring and inspection over organic product certification and production, processing, and marketing of organic products by means of:

- 1) Organizing people of the same trade to evaluate;
- 2) Soliciting comments from companies or individuals who have obtained a certificate;
- 3) Conducting random inspections on certification and relevant tests, as well as on certification decisions and test results;
- 4) Requesting institutions engaged in organic product certification and testing to submit reports on business activities;
- 5) Making random inspections on certificate and use of labels;
- 6) Randomly checking the organic products being sold, and
- 7) Accepting complaints and appeals about certification and handling certification-related acts that violate laws and regulations.

Article 35 Companies or individuals engaged in production, processing, or marketing who have obtained an organic product certificate should establish a complete tracking system and a record of production, processing, or marketing in the course of production, processing, packaging, transportation, storage, and operation in accordance with the national standards on organic products and these Measures.

Article 36 Imported organic products should comply with relevant Chinese laws, administrative regulations and department rules as well as national standards on organic products.

Article 37 In case the applicant disagrees with the certification conclusion or decision by the organic product certification agency, he/she may lodge a complaint to the certification agency. In case the applicant still has different opinion about the conclusive decision, he/she may complain or appeal to CNCA.

Chapter VI Penalty Provisions

Article 38 Violation of Article 20 of these Measures by certifying processed product with organic ingredient content less than 95% is subject to a correction and fine up to 20,000 yuan.

Article 39 Violation of Article 21 of these Measures is subject to a correction and fine between 10,000 and 30,000 yuan.

Article 40 Violation of Articles 29, 30, and 31 is subject to a correction and fine between 10,000 and 30,000 yuan.

Article 41 Violation of Article 32 of these Measures is subject to a correction and fine between 10,000 and 30,000 yuan.

Article 42 Falsification, infringement, buying and selling, transfer of organic product certificates and labels will be punished according to relevant laws, administrative regulations, and department rules.

Article 43 Producing fake or untrue certification conclusion by an organic product certification agency, organic product testing agency, or person involved in organic product certification

will be handled according to Article 6 of the Regulation of the People's Republic of China on Certification and Accreditation.

Chapter VII Supplementary Provisions

Article 44 Fees regarding organic product certification shall be implemented in accordance with relevant state pricing laws and administrative regulations.

Article 45 The General Administration of Quality Supervision, Inspection and Quarantine is responsible for the interpretation of these Measures.



Article 46 These Measures shall go into effect as of April 1, 2005.

Appendix:

The designs of the certification labels for organic product



1) Certification label for organic products in China:



 C:100 M:0 Y:100 K:0
 C:0 M:80 Y:100 K:0

2) Certification label for organic products in conversion



 C:0 M:40 Y:100 K:40
 C:0 M:60 Y:100 K:0

The certification labels for organic products can be sized in 5 dimensions based on various needs, i.e. 10mm, 15mm, 20mm, 30mm, and 60mm.

END TRANSLATION