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**Regulations for the Safety Supervision and Administration of Cross-Border E-commerce of Imported Food via Bonded Online Shopping (Draft)**

《网购保税模式跨境电子商务进口食品安全监督管理细则》

**Regulations for the Safety Supervision and Administration of Cross-Border E-commerce of Imported Food via Bonded Online Shopping (Draft)**

**Translation Note:** *Cross Border E-Commerce will be referred to as “CBEC”.*

**Chapter I General Provisions**

**Article 1 [Purpose and basis]** To regulate the Safety supervision and administration work of CBEC of Imported Food via Bonded Online Shopping, to ensure the safety of imported food, the Regulations are formulated in accordance with the *Food Safety Law of the People's Republic of China* and its implementing regulations, the *Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine* and its implementing regulations, the *Law of the People's Republic of China on Import and Export Commodity Inspection* and its implementing regulations, as well as the *State Council Opinion on Fast Developing E-Commerce and Speed up Cultivation of New Economic Driving Forces* (Issued by State Council, [2015] #24), *General Office of the State Council Guidance and Opinion on Promoting Healthy and Rapid Development of CBEC* (Issued by General Office of the State Council, [2015] #46), *General Administration of Quality Supervision, Inspection and Quarantine Opinion on Further Play the Inspection and Quarantine Role to Promote the Development of CBEC* (Issued by AQSIQ, [2015] #202), and other laws and regulations.

**Article 2 [Scope of application]** The Regulations shall apply to the safety supervision and administration work and the operation of CBEC of Imported Food via Bonded Online Shopping (hereafter referred to as “Bonded Online Shopping Import”).

The “Bonded Online Shopping Import”, as mentioned in the regulations, refers to the CBEC import of

regardless of whether the consumer orders are generated at the time of border entry, the imported goods declared as CBEC, no individual package based on consumers order when at the border entry, storage at special supervision area after bulk transport of the goods, CBEC operator deliver the goods to the domestic consumers in separated package based on their order.

Products entering the border via international express or mail are excluded from these Regulations.

**Article 3 [Duties of operating bodies]** The bonded online shopping imported food operating bodies shall comply with China’s laws and regulations in their business and operations, and ensure the bonded online shopping imported food is in line with China’s laws and regulations and food safety standards.

The bonded online shopping imported food operating bodies include: the operating companies in bonded online shopping imported food (hereafter referred to as “Operating companies”), the third-party platform companies for the trade of bonded online shopping imported food (hereafter referred to as “Third-party platform companies”), and the logistics and warehousing companies for bonded online shopping imported food (hereafter referred to as “Logistics and warehousing companies”).

**Article 4 [Regulatory bodies]** General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) shall be in charge of the inspection and quarantine and supervision for the bonded online shopping imported food.

Local entry-exit inspection and quarantine authorities set up by AQSIQ shall be responsible for the inspection and quarantine and supervision for the bonded online shopping imported food at their local regions.

**Article 5 [Regulatory principles]** Entry-exit inspection and quarantine authorities shall implement registration administration on the bonded online shopping imported food operating bodies and the imported products, conduct supervision and inspection on the operation behavior of bonded online shopping imported food, and conduct quality and safety risk supervision on the bonded online shopping imported food.

## **Chapter II Obligations of operating bodies**

**Article 6 [General obligations of operating companies]** Operating companies should comply with China’s related laws and regulations on network food operation, establish and improve food safety management system, designate special personnel to be responsible for the food quality and safety, ensure the foods they sell in line with China’s relevant laws, regulations, and the requirements of national food safety standards. Those who are required by laws and regulations to apply production business license or registration should obtain food business license or registration certificate. Operating companies should get registered at the inspection and quarantine authorities in accordance with the regulations.

Operating companies should not import food via bonded online shopping as follows:

- (1) Prohibited items by the *Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine*;
- (2) Animal and plant derived food which has not received access permission in inspection and quarantine;
- (3) Food prohibited from border entry by other laws and regulations or the notices of AQSIQ.

Operating companies should also ensure their bonded online shopping imported food conforming to the following requirements:

- (1) Food being listed on the *Catalogue of Registered Enterprises in Outbound Production Enterprises of Imported Food* should come from the registered outbound food manufacturers.
- (2) Health products, genetically modified food, food with no national safety standards yet, new food ingredients, and food containing new material of food ingredients, should get registration, filing, and safety assessment from relevant departments and authorities.
- (3) Food required to receive animal and plant quarantine approval should obtain the access permission before the border entry.

**Article 7 [General obligations of platform companies]** Platform companies should establish and implement the administration systems of operating companies review and registration, information audit for the food sold, emergency disposal for food safety, complaint disposal, and consumer rights protection, to ensure the safety of food on their platform. Platform companies should have got registered at entry-exit inspection and quarantine authorities according to the regulations.

Platform companies should have the operating companies on the platform real-name registered, and have their responsibility for food safety management identified. For those companies which should obtain food production business license according to the law, they should be reviewed for the license.

Platform companies should establish the archive of the operating companies on the platform, review and record the information of the profile, products catalogue, brands of the operating companies, and the qualification and other information of the production and logistics companies.

Platform companies themselves being engaged in the business operation of the bonded online shopping imported food should obtain the food business license or registration certificate according to the law, and comply with the relevant measures in these Regulations.

Platform companies registered outbound should entrust legal qualified companies within borders as agents. Agent companies should take corresponding legal responsibility.

**Article 8 [General obligations of logistics and warehousing companies]** Logistics and warehousing companies should establish and implement the administration systems of food logistics and warehousing safety management and product traceability management. Logistics and warehousing

companies should have should have got registered at entry-exit inspection and quarantine authorities according to the regulations.

**Article 9 [Registration of operating bodies]** CBEC operating bodies should have got registered at Registration System for Importers and Exporters of Imported Food of AQSIQ to the entry-exit inspection and quarantine authorities. Operating companies, logistics and warehousing companies could have the platform companies to get the registration for them. Operating bodies registered outbound in the bonded online shopping imported food should entrust the agents within borders to get registered on behalf of them.

**Article 10 [Registration of products information]** Operating companies should ensure the bonded online shopping imported food they operating comes from the legal production companies overseas, and have the production information registered at Registration System for Importers and Exporters of Imported Food of AQSIQ to the entry-exit inspection and quarantine authorities.

**Article 11 [Quality and safety commitment]** Operating companies should issue public commitment on the quality and safety of the products they operating in the prominent place of their own websites homepage or their homepage on the third-party platform.

**Article 12 [Labels and instructions of products]** The bonded online shopping imported baby formulas should have labels in Chinese, which should be printed directly on the minimum sales package before the border entry, and could not be affixed within the borders. Other bonded online shopping imported food should provide labels and instructions in Chinese. Except those foods which have special requirements in eating or storage, or contain allergen should be attached with paper Chinese labels and instructions, operating companies can choose either attaching paper Chinese labels and instructions, or providing electronic version of Chinese labels and instructions of the products through CBEC trade platforms. Both choices should be offered for consumers when they make the orders. Electronic version of information should include specific content which required by China's laws, regulations and national food safety standards, and the names and contact information of the platform companies and operating companies.

Platform companies should publish the basic information mentioned above on their website in long term, so that the consumers can understand or search any time.

**Article 13 [Self-check qualified certification]** Operating companies should conduct self-check for the bonded online shopping imported food, and provide self-check qualified certification and materials when declare to the inspection and quarantine authorities. Self-check qualified certification and materials should be provided by qualified laboratory. Tests to the products imported for the first time should cover all the safety and hygiene items, which are required by the national food safety standards. Tests for the second and later times should include the middle and high risk safety and hygiene items which assessed by the entry-exit inspection and quarantine authorities.

**Article 14 [Border entry declare of products]** At the border entry of the bonded online shopping imported food, operating companies or their agent companies should declare to the local entry-exit inspection and quarantine authorities, and provide following materials:

- (1) The list of products name, and relevant HS code and specifications;
- (2) Official quarantine (hygiene) certificates required by the laws, regulations, bilateral agreements, protocols and other provisions to the original country/region.
- (3) Self-check qualified certification and materials;
- (4) Registration code of the operating company;
- (5) Qualifications on registration, filing, and safety assessment of the products according to the laws.

**Article 15 [Information records archive]** Operating companies should establish sales record and whole-process traceability system for the bonded online shopping imported food, to truthfully record the food name, brand, specification, number, manufacturing date, manufacturing or import batch code, official certificate code, storage life, name/address/contact information of overseas production company, overseas export company, and consumers in China, and the border entry date, so to establish information archive system. The records in the information archive should all be true, and should be kept for no less than the six months after the expiring date of the product. For products with no clear expiring date, the records should be kept for no less than two years.

Platform companies should review, record, and save the content and release date of the food safety information on their platform. The information of the operating companies' permission certificate and business license should be kept by the platform companies for no less than two years after the last business day of the operating company on the platform. The trade record and other information record should be kept for no less than six months after the product expiring date. For products with no clear expiring date, the records should be kept for no less than two years.

Platform companies should take technical measures of data backup, Recovery Console, etc, to ensure the integrity and safety of the food trade data and information on the network, and should ensure the authenticity in original data.

**Article 16 [Daily check report]** Platform companies should establish check system, set up special administration organizations or designate special full-time administration personnel to check the food and information sold on the platform. For those illegal activities including false information, exaggerated advertising, operation beyond approved business scope, and food quality and safety problems or any other potential security risks, the platform companies should immediately stop them, and report to the local inspection and quarantine authorities. For serious illegal acts, the platform companies should immediately stop providing network food trading platform service to them.

**Article 17 [Products recall]** When operating companies find the bonded online shopping imported food is not in line with China's food safety standards or with evidence to show may endanger human health, they should stop immediately the sales and import, and recall the products have been sold according to the regulations in the *Food Safety Law*. Operating companies should take remedying, harmless treatment, destruction and other measures to the products recalled, and report the recall and the disposition to the entry-exit inspection and quarantine authorities.

For those foods which the entry-exit inspection and quarantine authorities announced to have quality and safety problem or have other potential safety risks, the platform companies should take measures timely to stop the sales and assist to recall, etc.

**Article 18 [Cooperate with supervision and inspection]** Operating companies should actively cooperate with the supervision and inspection by the inspection and quarantine authorities, and provide necessary technical support in the areas of information inquiry and data extraction.

Platform companies should obtain, process and report the food safety information in time. Platform companies should provide necessary technical support in the areas of information inquiry, data extraction and service cessation for the supervision and inspection by the entry-exit inspection and quarantine authorities.

When entry-exit inspection and quarantine authorities find any illegal activity against food safety laws and regulations on the third-party platform, and request the platform companies to take measures to stop according to law, the platform companies should cooperate.

**Article 19 [Civil compensation]** Consumers who buy food through platform companies and get their legitimate rights and interests harmed, they can demand compensation from platform companies. If the platform companies are unable to provide the real name, address, and valid contact information, the compensation shall be paid by the platform companies. After the platform companies pay the compensation, they reserve the recourse rights from those network operating companies.

Platform companies shall or should know the operating companies using the platform to harm the consumers' legitimate rights and interests. If the platform companies fail in taking necessary measures or fulfilling the censor duty based on the Regulations, they would be jointly and severally liable to these operating companies based on the law.

**Article 20 [Consumer rights protection]** Platform companies should take measures to establish and enforce consumer dispute resolution and consumer rights protection system.

### **Chapter III Safety Supervision and Administration**

**Article 21 [Inspection and quarantine]** Entry-exit inspection and quarantine authorities shall implement border entry quarantine onto the bonded online shopping imported food based on laws, to ensure the products in compliance with China's quarantine requirements.

On the basis of risk analysis, entry-exit inspection and quarantine authorities shall conduct supervision and inspection on the quality and safety of bonded online shopping imported food in accordance with on laws and regulations on products inspection.

After supervision and inspection, when find any bonded online shopping imported food which is not in line with China's laws and regulations and national food safety standards, entry-exit inspection and quarantine authorities shall inform promptly the operating companies about the related information, and supervise them to stop sales and recall the products.

Entry-exit inspection and quarantine authorities shall accelerate the pace of products inspection and approval on the bonded online shopping imported food by the measures of gathering declare,

gathering inspection and quarantine, inspection and approval in batches, etc.

**Article 22 [Special spot check]** AQSIQ and Entry-exit inspection and quarantine authorities at all levels shall implement special supervision spot check plan annually on the quality and safety of bonded online shopping imported food, and publish the spot check results at regular basis.

**Article 23 [Supervision and inspection]** Entry-exit inspection and quarantine authorities shall supervise and inspect the registration information, record of product import and sales, product information traceability, and product recall of the operating companies and platform companies in bonded online shopping imported food.

**Article 24 [Credibility records]** AQSIQ shall implement credit administration on the operating bodies in bonded online shopping imported food, and establish credit records. For those operating bodies that have poor records, the efforts on the supervision, inspection and quarantine should be strengthened. For those serious circumstances, the operation of bonded online shopping imported food should be forbidden.

The Regulations shall enter into force on \*\*\* (date). AQSIQ shall be responsible for the interpretation of the Regulations. The Regulations prevails when any local regulation against these Regulations. The safety and supervision of bonded online shopping imported cosmetic products, refers to these Regulations.

## Original Chinese Version

### 网购保税模式跨境电子商务进口食品安全

#### 监督管理细则

(征求意见稿)

#### 第一章 总则

**第一条【目的依据】**为规范网购保税模式跨境电子商务进口食品安全监督管理工作，保障进口食品安全，根据《中华人民共和国食品安全法》及其实施条例、《中华人民共和国进出境动植物检疫法》及其实施条例、《中华人民共和国进出口商品检验法》及其实施条例等法律法规和《国务院关于大力发展电子商务加快培育经济新动力的意见》（国发〔2015〕24号）、《国务院办公厅关于促进跨境电子商务健康快速发展的指导意见》（国办发〔2015〕46号）、《质检总局关于进一步发挥检验检疫职能作用促进跨境电子商务发展的意见》（国质检通〔2015〕202号）等规范性文件要求，制定本细则。

**第二条【适用范围】** 本细则适用于网购保税模式跨境电子商务进口（以下简称“网购保税进口”）食品经营和安全监督管理。

网购保税进口是指无论进境时是否生成消费者订单，货物以跨境电子商务形式申报进口，入境时未按消费者订单形成独立包装，货物整批运至特殊监管区集中存放，跨境电商经营者按消费者订单形成独立包装后发往国内消费者的跨境电子商务进口模式。

产品通过国际快递或邮件方式进境的，不在本细则规定范围内。

**第三条【主体责任】** 网购保税进口食品经营主体的经营活动应当遵守我国相关法律法规规定，并保证其经营网购保税进口食品符合我国法律法规和食品安全国家标准。

网购保税进口食品经营主体包括：网购保税进口食品经营企业（简称经营企业）、网购保税进口食品交易第三方平台企业（简称平台企业）、网购保税进口食品物流仓储企业（简称物流仓储企业）等。

**第四条【监管主体】** 国家质检总局主管网购保税进口食品检验检疫监管工作。

国家质检总局设在各地的出入境检验检疫机构负责本辖区内网购保税进口食品的检验检疫监管工作。

**第五条【监管原则】** 出入境检验检疫机构对网购保税进口食品的经营主体和进口的产品实施备案管理，对网购保税进口食品经营行为实施监督检查，对网购保税进口食品实施质量安全风险监管。

## 第二章 经营主体义务

**第六条【经营企业一般义务】** 经营企业应当遵守我国网络食品经营相关法律法规规定，建立完善的食物安全管理制皮，指定专人负责食物质量安全，保证其经营食物符合我国有关法律法规规定和食物安全国家标准的要求。法律法规规定需要办理生产经营许可证或备案的，应当取得食物经营许可证或备案凭证。经营企业应当按规定向检验检疫部门备案。

经营企业不得通过网购保税进口以下食物：

- （一）《中华人民共和国进出境动植物检疫法》规定的禁止进境物；
- （二）未获得检验检疫准入的动植物源性食物；
- （三）其他法律法规规定和质检总局公告禁止进境的食物。

经营企业还应保证其经营网购保税进口食物符合以下要求：

(一) 列入《进口食品境外生产企业注册实施目录》的食品，应来自于经注册的境外食品生产企业；

(二) 保健食品、转基因食品、尚无食品安全国家标准食品、新的食品原料或配料中含有新的食品原料的食品，应当通过相关部门的注册、备案和安全性评估；

(三) 有动植物检疫审批要求的，进境前应当取得进境动植物检疫许可证明。

**第七条【平台企业一般义务】** 平台企业应当建立并执行经营企业审查登记、销售食品信息审核、食品安全应急处置、投诉举报处理、消费者权益保护等管理制度，保证其平台经营食品安全。平台企业应当按规定向出入境检验检疫部门备案。

平台企业应当对平台内的经营企业进行实名登记，明确其食品安全管理责任；依法应当取得食品生产经营许可证的，还应当审查其许可证。

平台企业应当建立在其平台经营企业的档案，审查并记录经营企业的基本情况、经营品种、品牌和生产企业、物流企业资质等信息。

平台企业自身从事网购保税进口食品经营的，应当依法取得食品经营许可或者备案凭证，并遵守本办法有关经营企业的相关规定。

平台企业属于境外注册的，应当委托境内具有合法资质的企业作为代理商。代理商应当承担相应的法律责任。

**第八条【物流仓储企业一般义务】** 物流仓储企业应当建立和执行食品物流仓储安全管理制度和产品流向溯源管理制度。物流仓储企业应当按规定向出入境检验检疫部门备案。

**第九条【经营主体备案】** 跨境电商经营主体应当通过质检总局进口食品进出口商备案系统向出入境检验检疫机构备案。经营企业、物流仓储企业可以由平台企业代为备案。境外注册的网购保税进口食品经营主体应委托境内代理商办理备案。

**第十条【产品信息备案】** 经营企业应当保证其经营网购保税进口食品来自境外合法生产企业，并将产品信息通过质检总局进口食品进出口商备案系统向出入境检验检疫机构备案。

**第十一条【质量安全承诺】** 经营企业应当在其自行建立网站首页或所在第三方平台经营活动的主页显著位置公开承诺其经营产品的质量安全。

**第十二条【产品标签说明】** 网购保税进口婴幼儿配方乳粉必须随附中文标签，且中文标签须在入境前直接印制在最小销售包装上，不得在境内加贴。网购保税进口其他食品应当随附中文标签、中文说明书，除食用、保存有特殊要求或含有过敏原的食品需随附纸质中文标签和中文说明书外，经营企业可采取产品随附纸质中文标签、中文说明书或通过跨境电子商务交

易平台提供产品中文标签、中文说明书的电子信息，两种方式应当供消费者在填写订单时选择。电子信息应当包括我国法律法规和食品安全国家标准要求标注的具体内容，并应当注明平台企业和经营企业的名称和联系方式。

平台企业应在其网站长期公布上述基本信息，以便消费者随时了解查询。

**第十三条【自我合格证明】** 经营企业应当对其网购保税进口食品进行自检，并在向检验检疫机构申报时提供产品自我合格证明材料。自我合格证明材料应由有资质的实验室出具，产品首次进口时检测项目应当覆盖本产品食品安全国家标准规定的所有安全卫生项目；再次进口时检测项目应包括经出入境检验检疫机构风险评估确定的高、中风险安全卫生项目。

**第十四条【产品入境申报】** 网购保税进口食品入境时，经营企业或其代理报检企业应当向当地出入境检验检疫机构申报，并提供如下材料：

- （一）产品品名清单及对应的 HS 编码、规格型号；
- （二）法律法规、双边协定、议定书以及其他规定要求提交的输出国家（地区）官方检疫（卫生）证书；
- （三）产品自我合格证明材料；
- （四）经营企业备案编号；
- （五）产品依法应当取得的注册、备案、安全性评估等资质。

**第十五条【信息记录保存】** 经营企业应当建立网购保税进口食品销售记录和全程信息追溯制度，如实记录食品的名称、品牌、规格、数量、生产日期、生产或者进口批号、官方证书编号、保质期、境外生产企业、境外出口商、境内消费者名称、地址和联系方式、进境日期等内容，并建立信息化档案。信息化档案的记录应当真实，保存期限不得少于产品保质期满后六个月；没有明确保质期的，保存期限不得少于二年。

平台企业应当审查、记录、保存在其平台上发布的食品安全信息内容及其发布时间。平台内经营者的许可证和营业执照信息记录保存时间从经营者在平台内结束经营活动之日起不少于两年，交易记录等其他信息记录备份保存时间不得少于产品保质期满后六个月，没有明确保质期的，不得少于两年。

平台企业应当采取数据备份、故障恢复等技术手段确保网络食品交易数据和资料的完整性和安全性，并应当保证原始数据的真实性。

**第十六条【日常检查报告】** 平台企业应当建立检查制度，设置专门的管理机构或者指定专职管理人员，对平台内销售的食物及信息进行检查，对虚假信息、夸大宣传、超范围经营

等违法行为以及食品质量安全问题或者其他安全隐患，及时制止，并向所在地检验检疫部门报告，发现严重违法行为的，应当立即停止向其提供网络食品交易平台服务。

**第十七条【产品召回】** 经营企业发现其经营的网购保税进口食品不符合我国食品安全国家标准或者有证据证明可能危害人体健康的，应当立即停止销售和进口，已经销售的依照《食品安全法》的规定予以召回。经营企业应当对召回的产品采取补救、无害化处理、销毁等措施，并将产品召回和处理情况向出入境检验检疫机构报告。

平台企业对出入境检验检疫部门公布的存在质量安全问题或者其他安全隐患的食品，应当及时采取停止销售、协助召回等措施。

**第十八条【配合监督检查】** 经营企业应当积极配合检验检疫部门的监督检查，在信息查询、数据提取等方面提供必要的技术支持。

平台企业应当及时接收、处理和报告食品安全信息。出入境检验检疫部门进行监督检查时，平台企业应当在销售信息查询、数据提取、停止服务等方面提供必要的技术支持。

出入境检验检疫部门发现第三方平台内有违反食品安全法律法规的行为，依法要求平台企业采取措施制止的，平台企业应当予以配合。

**第十九条【民事赔偿】** 消费者通过平台企业购买食品，其合法权益受到损害的，可以向进入平台经营企业要求赔偿。平台企业不能提供经营企业的真实名称、地址和有效联系方式的，由平台企业赔偿。平台企业赔偿后，有权向入网经营企业追偿。

平台企业知道或者应当知道经营企业利用其平台侵害消费者合法权益，未采取必要措施的，或未依本细则履行审查义务的，依法与该入网食品经营企业承担连带责任。

**第二十条【消费者权益保护】** 平台企业应当采取措施，建立并执行消费纠纷解决和消费者权益保障制度。

### 第三章 安全监管

**第二十一条【检验检疫】** 出入境检验检疫机构依法对网购保税进口食品实施入境检疫，确保符合我国检疫要求。

出入境检验检疫机构在风险分析的基础上，依照进出口商品检验相关法律、行政法规的规定，对网购保税进口食品的质量安全实施检验监管。

经检验监管发现网购保税进口食品不符合我国法律法规和食品安全国家标准的，出入境检验检疫机构应及时将有关信息通报经营企业，并监督其采取停止销售和召回等措施。

出入境检验检疫机构对网购保税进口食品实施集中申报、集中检验检疫、分批核放等措施，加快产品验放速度。

**第二十二条【专项抽查】** 质检总局和各地出入境检验检疫机构每年对网购保税进口食品质量安全实施专项监督抽查计划，并定期公布抽查结果。

**第二十三条【监督检查】** 出入境检验检疫机构应当对网购保税进口食品经营企业和平台企业的备案信息、产品进口和销售记录、产品信息追溯、召回等进行监督检查。

**第二十四条【诚信记录】** 质检总局对网购保税进口食品经营主体实施信用管理，建立信用记录。对有不良记录的经营主体，应当加强对其经营网购保税进口食品的检验检疫监督检查；情节严重的，不得经营网购保税进口食品。

本细则自 起实施，由国家质检总局负责解释。各地相关规定与本细则不符的，以本细则为准。网购保税进口化妆品安全监管参照本细则执行。