

Provisions on the Administration of Entry-Exit Inspection and Quarantine Declaration by Proxy (2010)

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Order of the General Administration of Quality Supervision, Inspection and Quarantine

(No. 128)

The Provisions on the Administration of Entry-Exit Inspection and Quarantine Declaration by Proxy, which were deliberated and adopted at the executive meeting of the General Administration of Quality Supervision, Inspection and Quarantine on March 10, 2010, are hereby promulgated, and shall come into force on June 1, 2010.

Director General Wang Yong

March 30, 2010

Provisions on the Administration of Entry-Exit Inspection and Quarantine Declaration by Proxy

Chapter I General Provisions

Article 1 These Provisions are formulated in accordance with the Administrative License Law of the People's Republic of China, the Law of the People's Republic of China on Import and Export Commodity Inspection and the regulation on its implementation, the Law of the People's Republic of China on Entry-Exit Animal and Plant Quarantine and the regulation on its implementation, the Frontier Health and Quarantine Law of the People's Republic of China and the detailed rules for its implementation, the Food

Safety Law of the People's Republic of China and the regulation on its implementation, and other laws and regulations for the purpose of strengthening the supervision and administration of the inspection and quarantine declaration agencies, and regulating the act of inspection and quarantine declaration by proxy.

Article 2 These Provisions shall be applicable to the registration and supervision and administration of the inspection and quarantine declaration agencies.

The term "inspection and quarantine declaration agencies" as mentioned in these Provisions shall refer to the domestic enterprises engaging in the inspection and quarantine declaration by proxy which handle the inspection and quarantine declaration upon the entrustment of the entry-exit consignees and consigners (hereinafter referred to as the "principals") after registration at the inspection and quarantine institutions.

Article 3 The General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (hereinafter referred to as the "AQSIQ") shall be responsible for the administration of the inspection and quarantine declaration by proxy throughout the county.

The entry-exit inspection and quarantine bureaus at all localities directly under the AQSIQ (hereinafter referred to as the "inspection and quarantine bureaus directly under the AQSIQ") shall be responsible for the decision on the registration of the inspection and quarantine declaration agencies within their respective jurisdictions.

The inspection and quarantine bureaus directly under the AQSIQ and their branches (hereinafter referred to as the "inspection and quarantine institutions") shall, according to the division of duties, be responsible for the acceptance and examination of the applications for registration of inspection and quarantine declaration agencies and the supervision and administration of the inspection and quarantine declaration agencies within their respective jurisdictions.

Article 4 An inspection and quarantine declaration agency shall be subject to registration with an inspection and quarantine institution, otherwise it shall not engage in the business of inspection and quarantine declaration by proxy.

An inspection and quarantine declaration agency may engage in the business of inspection and quarantine declaration by proxy within the jurisdiction of the inspection and quarantine institution directly under the AQSIQ where it registered.

Article 5 An inspection and quarantine declaration agency accepting the entrustment of a principal shall engage in the business of inspection and quarantine declaration by proxy within the scope authorized by the principal, and verify the authenticity of the information provided by the principal.

An inspection and quarantine declaration agency shall regulate the inspection and quarantine declaration of its inspection and quarantine declarers, and bear legal liabilities for the declarations.

Chapter II Registration of Inspection and Quarantine Declaration Agencies

Section I Application and Acceptance

Article 6 Any enterprise applying for the registration of inspection and quarantine declaration agencies (hereinafter referred to as the “applicant”) shall meet the following conditions:

(1) it has a “Business License of an Enterprise Legal Person” issued by the administrative department for industry and commerce;

(2) the registered capital in the “Business License of an Enterprise Legal Person” is RMB one million yuan or more;

(3) it has a fixed business site and facilities necessary for handling the business of inspection and quarantine declaration by proxy;

(4) it has a sound internal management system; and

(5) it has at least five would-be inspection and quarantine declarers who have obtained the “Qualification Certificate for Inspection and Quarantine Declarers”.

Where a branch applies for the registration of inspection and quarantine declaration agency in its own name, it shall obtain a Business License, and meet the conditions as required in Items 3, 4 and 5 of the preceding paragraph, and the registered capital of its parent company shall be one million yuan or more.

Article 7 An applicant shall submit an application and the following materials to the inspection and quarantine institution of the place of its domicile as indicated in the business license (hereinafter referred to as the “acceptance institution”):

- (1) an application for registration of inspection and quarantine declaration agency;
- (2) a photocopy of the “Business License of an Enterprise Legal Person”; and if the branch applies in its own name, it shall submit a photocopy of the Business License and the power of attorney of its parent company at the same time;
- (3) a photocopy of the Organization Code Certificate;
- (4) a photocopy of the “Qualification Certificates for Inspection and Quarantine Declarers” of the inspection and quarantine declarers to be appointed;
- (5) the employment contracts concluded between the inspection and quarantine declaration agency and the inspection and quarantine declarers to be appointed;
- (6) a photocopy of the articles of association;
- (7) a photocopy of the ownership certificate or lease certificate of the business site; and
- (8) a specimen of the seal of the applicant.

The materials submitted by the applicant shall be affixed with the official seal of the enterprise, and if the photocopies are submitted, the originals shall be submitted simultaneously for verification.

Article 8 Where an acceptance institution receives an application for registration, it shall handle according to the following circumstances:

(1) If the application materials are incomplete or fail to meet the statutory form, it shall, on the spot or within five days, inform the applicant of all necessary supplements and corrections at one time. If it fails to do so within the prescribed time limit, it shall be deemed as having accepted the application upon receipt of the application materials;

(2) If the application materials only contain errors that can be corrected on the spot, it shall allow the applicant to correct them on the spot; and

(3) If the application materials are complete and meet the statutory form, or the applicant submits all the supplements and corrections of the application materials as required, it shall accept the application.

If the application is accepted, the acceptance institution shall issue a written decision on acceptance of the application for administrative license uniformly formulated by the AQSIQ to the applicant.

Section II Examination and Decision

Article 9 An acceptance institution shall, according to the statutory conditions and procedures, conduct an examination on an accepted application, and designate two or more staff members to conduct an on-site inspection on the material contents of the application materials.

Where a branch accepts an application, it shall submit the preliminary examination opinions and all the application materials to the inspection and quarantine bureau directly under the AQSIQ.

Article 10 An inspection and quarantine bureau directly under the AQSIQ shall, within 20 days upon acceptance of an application, make a decision on approval or disapproval of registration. If it fails to make a decision within 20 days, it may be extended for 10 more days, subject to approval of the person in charge of the inspection and quarantine bureau directly under the AQSIQ, and the reasons for the extension of the time limit shall be informed to the applicant in writing.

Article 11 If an inspection and quarantine bureau directly under the AQSIQ approves the registration, it shall, within 10 days from making a written decision, issue a Registration Certificate of an Inspection and Quarantine Declaration Agency (hereinafter referred to as the “Registration Certificate”) to the applicant.

If it disapproves the registration, it shall issue a decision on disapproval of registration, give the reasons, and inform the applicant of the right to apply for administrative reconsideration or lodge an administrative lawsuit according to law.

The Registration Certificate shall be valid for four years.

Article 12 An inspection and quarantine declaration agency obtaining a Registration Certificate can not engage in the business of inspection and quarantine declaration by proxy within the prescribed service areas of inspection and quarantine declaration until:

(1) it has handled the registration of inspection and quarantine declarers at the inspection and quarantine institution for the would-be inspection and quarantine declarers; and

(2) has made a special seal for the inspection and quarantine declaration by proxy and filed it with the inspection and quarantine institution for archival purposes.

Section III Modification and Deregistration

Article 13 In case of any modification of an inspection and quarantine declaration agency’s name, address, legal representative or the person in charge of a non-legal-person enterprise, business scope or any other major issue, the agency shall, within 30 days as of the modification, apply for modification to the inspection and quarantine bureau directly under the AQSIQ upon the strength of the business license and other relevant evidential materials. If the changes are relevant to the issues recorded in the Registration Certificate, the inspection and quarantine bureau directly under the AQSIQ shall issue a new certificate.

Article 14 Under any of the following circumstances, an inspection and quarantine bureau directly under the AQSIQ may, at the request of any interested party or upon its authority, cancel the registration of an inspection and quarantine declaration agency:

(1) any inspection and quarantine staff member makes a decision on approval of registration by abusing his power and neglecting his duties;

(2) making a decision on approval of registration beyond the statutory authority;

(3) making a decision on approval of registration in violation of statutory procedures;

(4) approving the registration of an applicant who is not eligible for application or fails to meet the statutory conditions; or

(5) other circumstances that the registration may be cancelled according to law.

Where an inspection and quarantine declaration agency obtains registration through illegal means such as fraud or bribery, the registration shall be cancelled.

Article 15 Under any of the following circumstances, an inspection and quarantine bureau directly under the AQSIQ shall go through the formalities for deregistration according to law:

(1) an inspection and quarantine declaration agency terminates the business of inspection and quarantine declaration by proxy;

(2) an inspection and quarantine declaration agency is terminated according to law;

(3) the organization code of an inspection and quarantine declaration agency changes;

(4) the registration is cancelled or withdrawn, or the registration certificate is revoked; or

(5) other circumstances under which the administrative license shall be deregistered as prescribed by any law or regulation.

An inspection and quarantine declaration agency whose eligibility for registration is cancelled shall return the Registration Certificate and the Certificate for Inspection and Quarantine Declarers.

Chapter III Act of Inspection and Quarantine Declaration by Proxy

Article 16 An inspection and quarantine declaration agency may handle the following businesses of inspection and quarantine declaration by proxy:

(1) going through the formalities of inspection and quarantine declaration;

(2) paying the inspection and quarantine fees on behalf of someone else;

(3) contacting and cooperating with the inspection and quarantine institution in carrying out inspection and quarantine; and

(4) obtaining inspection and quarantine certificates.

Article 17 An inspection and quarantine declaration agency shall, when handling the formalities for inspection and quarantine declaration upon entrustment, submit a power of attorney for inspection and quarantine declaration to the inspection and quarantine institution.

The power of attorney for inspection and quarantine declaration shall indicate the issues under entrustment and shall be affixed with the official seals of both the principal and the inspection and quarantine declaration agency.

Article 18 An inspection and quarantine declaration agency shall bear the obligation of keeping confidential the commercial secrets it had access to in the process of carrying out the inspection and quarantine declaration by proxy.

Article 19 No inspection and quarantine declaration agency shall allow anyone else to carry out the business of inspection and quarantine declaration by proxy in its name.

Article 20 An inspection and quarantine declaration agency shall faithfully inform the principal of the information on inspection and quarantine fees, and shall not charge fees arbitrarily from the principal in the name of an inspection and quarantine institution.

The payer indicated in a receipt of inspection and quarantine fees shall be the principal.

Chapter IV Supervision and Administration

Article 21 An inspection and quarantine institution may, according to the needs of work, conduct supervision and inspection on the business activities of inspection and quarantine declaration by proxy of the inspection and quarantine declaration agencies, and the latter shall provide cooperation.

Article 22 An inspection and quarantine institution shall conduct a routine examination on the inspection and quarantine declaration agencies every two years. Each inspection and quarantine declaration agency shall, between March 1 and March 31 of each examination year, apply to the inspection and quarantine institution of the place where it is located for routine examination, and submit the Routine Examination Report in the latest two years.

A Routine Examination Report shall mainly include: the basic information on the inspection and quarantine declaration agency, the compliance of the laws and regulations on inspection and quarantine, the information on the inspection and quarantine declarers and the changes thereof, the information on the business of the inspection and quarantine declaration by proxy and the analysis thereof, the errors in inspection and quarantine declaration and the reasons thereof, the self-evaluation, etc.

Article 23 An inspection and quarantine institution shall, prior to May 31 of the current year, complete the routine examination on the inspection and quarantine declaration agencies.

Article 24 An inspection and quarantine bureau directly under the AQSIQ shall, according to the relevant rules of the AQSIQ on integrity management, conduct classification management on the inspection and quarantine declaration agencies.

Where any inspection and quarantine declaration agency has violated any law and is subject to administrative punishment, the inspection and quarantine institution may include it in the list of incompliant enterprises and announce it to the public.

Article 25 An inspection and quarantine declaration agency shall set up and improve the files on the business of inspection and quarantine declaration by proxy according to the requirements by the inspection and quarantine institution, and truthfully and completely record the business of inspection and quarantine declaration by proxy it has undertaken.

The files on the business of inspection and quarantine declaration by proxy of an inspection and quarantine declaration agency shall be kept for four years.

Chapter V Legal Liabilities

Article 26 Where any inspection and quarantine declaration agency has failed to faithfully provide the true information on the imported and exported commodities, obtained the relevant certificates from an inspection and quarantine institution, or failed to declare the imported or exported commodities subject to statutory inspection for inspection and quarantine, or avoided the inspection on imported and exported commodities, the inspection and quarantine institution shall, according to Article 48 of the Regulation on the Implementation of the Law of the People's Republic of China on Import and Export Commodity Inspection, confiscate its illegal gains, and impose a fine of 5% up to 20% of the amount of the value of the commodities, and if the circumstances are serious, cancel its registration for inspection and quarantine declaration.

Article 27 Where any inspection and quarantine declaration agency disturbs the order of inspection and quarantine declaration as in violation of the regulations, and commits any of the following acts, the inspection and quarantine institution shall, according to Article 58 of the Regulation on the Implementation of the Law of the People's Republic of China on Import and Export Commodity Inspection, order it to make rectifications, confiscate its illegal gains, and may simultaneously impose a fine of not more than 100,000 yuan, suspend its business of inspection and quarantine declaration by

proxy for six months, and may, if the circumstances are serious, cancel its registration of inspection and quarantine declaration agencies:

- (1) the registration for practicing in the business of inspection and quarantine declaration of three or more of its inspection and quarantine declarers are cancelled within one year;
- (2) failing to pay the inspection and quarantine fees for the principal according to the relevant provisions, failing to faithfully inform the principal of the information on the inspection and quarantine fees, or arbitrarily charging fees from the principal in the name of an inspection and quarantine institution;
- (3) failing to cooperate with the inspection and quarantine institution in the investigation and disposal or menace or giving bribes to the inspection and quarantine staff members;
- (4) transferring its name to others for handling the business of inspection and quarantine declaration by proxy; or
- (5) failing the routine examination.

Article 28 Where an inspection and quarantine declaration agency falls under any of the following circumstances and has illegal income, the inspection and quarantine institution shall order it to make rectifications, impose a fine of not more than three times the illegal gain to the extent of not more than 30,000 yuan, and if there is no illegal gain, impose a fine of not more than 10,000 yuan:

- (1) failing to set up or improve the files on the business of inspection and quarantine declaration by proxy according to the relevant provisions, or failing to truthfully and completely record the business of inspection and quarantine declaration by proxy it has undertaken;
- (2) refusing to accept the supervision and inspection by the inspection and quarantine institution; or
- (3) failing to apply for routine examination on time.

Article 29 Where an inspection and quarantine declaration agency has committed any other violation of the laws and regulations on the entry-exit inspection and quarantine, the inspection and quarantine institution shall hold it liable according to the relevant laws and regulations.

Chapter VI Supplementary Provisions

Article 30 No functionary of an inspection and quarantine institution may have any interest in an inspection and quarantine declaration agency. The functionaries of the inspection and quarantine institutions, the persons who should withdraw according to the relevant provisions of the state and the persons who have left their inspection and quarantine posts for less than 3 years shall not hold any position in any inspection and quarantine declaration agency and shall withdraw according to the relevant provisions.

Article 31 The measures for the administration of the act of any production enterprise which handles the formalities for inspection and quarantine declaration upon entrustment of a foreign trade company purchasing its products shall be formulated separately by the AQSIQ.

Article 32 A Registration Certificate shall include an original and a duplicate. The duplicate shall be used for the routine examination for twice. After it has been used for twice, it shall be replaced in light of the routine examination.

Article 33 The format of the applications for registration, registration certificates, power of attorney for inspection and quarantine declaration and other documents shall be uniformly formulated by the AQSIQ, and announced separately.

Article 34 The time limits for implementing the administrative license by the inspection and quarantine institutions as prescribed by these Provisions shall be computed on the basis of working days, excluding legal holidays.

Article 35 The power to interpret these Provisions shall remain with the AQSIQ.

Article 36 These Provisions shall come into force on June 1, 2010. The Provisions on the Administration of Entry-Exit Inspection and Quarantine Declaration by Proxy (Order No. 34 of the AQSIQ) promulgated by the AQSIQ on November 6, 2002 shall be abolished simultaneously.