



Regulatory Insights

Date Released

October 31, 2019

Government Agency

State Council

Implementation Rules for the Food Safety Law

中华人民共和国食品安全法实施条例

State Council of the People's Republic of China

Decree No. 721

The “Regulation on the Implementation of the Food Safety Law of the People's Republic of China” was revised in the 42nd executive meeting of the State Council on March 26, 2019. The revised “Regulation on the Implementation of the Food Safety Law of the People's Republic of China” is hereby released and will be implemented since December 1, 2019.

Prime Minister Li Keqiang
October 11, 2019

Implementation Rules for the Food Safety Law of the People's Republic of China

(Released by Decree No. 557 of the State Council of the People's Republic of China on July 20, 2009
Revised according to “Decision of the State Council on Amending Some Administrative Regulations” on
February 6, 2016

Revised and approved in the 42nd executive meeting of the State Council on March 26, 2019)

Chapter I General Provisions

Article 1 The Regulation is formulated according to the “Food Safety Law of the People's Republic of China” (hereinafter referred to as the Food Safety Law).

Article 2 The food producers and operators shall follow laws, regulations and food safety standards to be engaged in the production and operation, establish and improve the food safety management system and take effective measures to prevent and control the food safety risks to ensure the food safety.

Article 3 The Food Safety Commission of the State Council is responsible for analyzing the food safety trend, studying, deploying and guiding the food safety as a whole, proposing major policy measures for food safety supervision and administration and supervising the implementation of food safety supervision and administration responsibilities. The food safety committees of local people's governments above the county level shall carry out their work in accordance with the responsibilities prescribed by the people's governments at the same level.

Article 4 The local people's governments above the county level shall establish uniform and authoritative food safety supervision and administration system and strengthen the construction of food safety supervision and administration capabilities.

The food safety supervision and administration departments and other related departments of local people's governments above the county level shall perform their responsibilities according to law, strengthen coordination and cooperation and properly supervise and manage the food safety.

The people's governments of township and the subdistrict offices shall support and help the food safety supervision and administration departments of local people's governments and their agencies at the county level to supervise and manage the food safety according to law.

Article 5 The state shall include the food safety knowledge into national quality education, and popularize the scientific and legal knowledge of food safety to improve the food safety awareness of the whole society.

Chapter II Food Safety Risk Monitoring and Evaluation

Article 6 The health administrative departments of the people's governments above the county level shall establish the food safety risk monitoring consultation mechanism in conjunction with the departments related to food safety supervision and administration, etc. at the same level to summarize and analyze the risk monitoring data and form the food safety risk monitoring analysis reports, which shall be submitted to the people's government at the same level. The health administrative departments of the local people's governments above the county level shall also submit the food safety risk monitoring analysis reports to the health administrative department of the superior people's government. Specific measures for food safety risk monitoring consultation shall be formulated by the health administrative department of the State Council in conjunction with the food safety supervision and administration department, etc. of the State Council.

Article 7 If the food safety risk monitoring results show the hidden danger of food safety, the food safety supervision and administration department, etc. shall make further investigation, and notify the food producers and operators in time if necessary.

The food producers and operators receiving notice shall self-inspect themselves immediately. If discovering that the foods are inconsistent with food safety standards or there is evidence of possible harm to human health, production and operation shall be suspended, foods shall be recalled and relevant information shall be reported as specified in Article 63 of the Food Safety Law.

Article 8 The health administrative department, food safety supervision and administration department, etc. of the State Council shall propose the safety evaluation suggestions for the agricultural administration department of the State Council if discovering the safety evaluation is required for pesticides, fertilizers, veterinary drugs, fodders, feed additives, etc. The agricultural administration department of the State Council shall organize the evaluation in time and report the evaluation results to the relevant departments of the State Council.

Article 9 The food safety supervision and administration department and other related departments of the State Council shall establish the food safety risk information communication mechanism to indicate the content, procedures and requirements of the food safety risk information communication.

Chapter III Food Safety Standards

Article 10 The health administrative department of the State Council shall formulate the national standard planning and its annual implementation plan of food safety in conjunction with the food safety supervision and administration department and the agricultural administration department of the State Council. The health administrative department of the State Council shall publish the drafts of the national standard planning and its annual implementation plan of food safety in its website and seek public opinions.

Article 11 The health administrative departments of the people's governments in provinces, autonomous regions and municipalities directly under the central government shall formulate the local food safety standards as stipulated in Article 29 of the Food Safety Law and seek public opinions. The health administrative departments of the people's governments in provinces, autonomous regions and municipalities directly under the central government shall submit the local standards to the health administrative department of the State Council within 30 working days since the date when the local standard of food safety is issued. The health administrative department of the State Council shall make timely correction if finding the filed local food safety standards violate laws, regulations or national food safety standards.

If the local food safety standards are abolished according to law, the health administrative departments of the people's governments in provinces, autonomous regions and municipalities directly under the central government shall publish the abolishment in their websites in time.

Article 12 Health foods, formulas for special medical purpose, infant formulas and other special foods are excluded in the local specialty foods, and the local food safety standards cannot be formulated for them.

Article 13 After the food safety standards are issued, the food producers and operators may implement the standards and publicize the implementation in advance before the implementation date specified in the food safety standards.

Article 14 Food production enterprises cannot formulate the enterprises standards lower than the national standards or local food safety standards.If the food production enterprises formulate the food safety indexes stricter than the enterprise standards specified in the national standards or local food safety standards, the health administrative departments of the people's governments in provinces, autonomous regions and municipalities directly under the central government shall be reported for filing.

If formulating the enterprise standards, the food production enterprises shall publicize the standards which are free for public look-up.

Chapter IV Food Production and Operation

Article 15The food production and business license shall be valid for 5 years.

If the production and operation conditions of food producers and operators change and are inconsistent with the food production and operation requirements, the food producers and operators shall take rectification measures immediately. If it is necessary to handle the licensing formalities again, the formalities shall be fulfilled according to law.

Article 16 The health administrative department of the State Council shall publish the list of new food raw materials, new varieties of food additives, new varieties of food-related products and applicable national food safety standards.

The health administrative department of the State Council shall update the list of materials which are traditional foods and traditional Chinese medicinal materials in conjunction with the food safety supervision and administration department of the State Council.

Article 17 The food safety supervision and administration department of the State Council shall indicate the basic requirements for traceability in the whole process of food safety in conjunction with the agricultural administrative department of the State Council and guide the food producers and operators to establish and improve the food safety traceability system by information means.

The food safety supervision and administration department and other departments shall regard the traceability system construction of infant formulas and other foods for special group as well as other foods with higher food safety risk or large sales volume as emphasis of supervision and inspection.

Article 18 The food producers and operators shall establish the food safety traceability system, and truthfully record the preserve such information as purchasing inspection, delivery inspection and food sales as per the Food Safety Law to ensure foods are traceable.

Article 19 Major principals of the food production and operation enterprises shall take full responsibility for their food safety, establish and implement their food safety responsibility system, and strengthen the supplier management, purchasing inspection and delivery inspection, production and operation process control, food safety self-inspection, etc.The food safety management personnel of food production and operation enterprises shall assist major principals of enterprises in the food safety management.

Article 20 Food production and operation enterprises shall strengthen the training and assessment for food safety management personnel. The food safety management personnel shall grasp the food safety laws, regulations, standards and specialized knowledge adaptive to their posts and shall be capable of food safety management. The food safety supervision and administration department shall randomly supervise, inspect and assess the food safety management personnel of enterprises. The assessment guide is formulated and released by the food safety supervision and administration department of the State Council.

Article 21 If the producers and operators of foods and food additives entrust the production of foods and food additives, the producers acquiring food production license and food additive production license shall be entrusted for production, and their production behaviors shall be supervised. They shall be responsible for the safety of foods and food additives entrusted for production. The trustee shall produce in accordance with laws, regulations, food safety standards and contractual stipulations, and shall be responsible for production and accept the supervision of the entrusting party.

Article 22 The food producers and operators cannot store the materials specified in the list which is formulated in Article 63 of the Regulation in the places of food production and processing.

Article 23 The irradiation processing of foods shall comply with the national food safety standards, and the foods after the irradiation processing shall be inspected and marked in accordance with the requirements of the national food safety standards.

Article 24 Foods with special requirements for temperature and humidity shall be stored and transported with heat preservation, refrigeration or freezing equipment and facilities, which shall keep running effectively.

Article 25 Where food producers and operators entrust the storage or transportation of foods, they shall review the food safety guarantee ability of the trustee and supervise the trustee to store and transport the foods in accordance with the requirements for ensuring food safety. The trustee shall ensure that the food storage and transportation conditions meet the requirements of food safety and strengthen the management of food storage and transportation processes.

Where the food producers and operators' entrustment of the storage and transportation of foods is accepted, the name, address and contact information of the entrusting party and the consignee shall be recorded truthfully. The record retention period shall not be less than 2 years after storage and transportation of foods.

Non-food producers and operators engaged in food storage business with special requirements for temperature, humidity, etc. shall file with the food safety supervision and administration department of the local people's government at the county level within 30 working days from the date of obtaining the business license.

Article 26 Where a catering service provider entrusts a centralized disinfection service unit of tableware and drinkware to provide cleaning and disinfection services, it shall inspect and retain a copy of the business license and disinfection certificate of the centralized disinfection service unit of the tableware and drinkware. The retention period shall not be less than 6 months after the expiration of the service life of the disinfected tableware and drinkware.

Article 27 The centralized disinfection service unit for tableware and drinkware shall establish a factory inspection record system for tableware and drinkware, truthfully record the quantity, disinfection date and batch number, service life and ex-factory date of the ex-factory tableware and drinkware, and the name, address and contact information of the entrusting party. The retention period of the delivery inspection record shall not be less than 6 months after the expiration of the service life of the disinfected tableware and drinkware. The individual package of tableware and drinkware disinfected shall be marked with the company name, address, contact information, date of disinfection, batch number and service life, etc.

Article 28 The canteens of companies adopting centralized dining such as schools, kindergarten units, nursing institutions for the aged, and construction sites shall implement systems for the control of raw materials, cleaning and disinfection of tableware and drinkware, food sample reserving, etc., and carry out food safety self-examination of canteens on a regular basis in accordance with Article 47 of the Food Safety Law.

If the canteen of a company adopting centralized dining is contracted, it shall obtain a food business license according to law and be responsible for the food safety of the canteen. The company adopting centralized dining shall supervise the contractor to implement the food safety management system and assume management responsibilities.

Article 29 Food producers and operators shall clearly mark or store the foods that have deteriorated, exceeded the shelf life or been recycled in a place with clear signs independently, and take measures such as harmless disposal and destruction in a timely manner and record them truthfully.

The term "recycled food" as used in the Food Safety Law refers to a food that has been sold and recalled or returned due to violation of laws, regulations, or food safety standards or expiration of the warranty period, excluding the foods that can be sold continuously in accordance with the provisions of Clause III, Article 63 of the Food Safety Law.

Article 30 Local people's governments at or above the county level shall construct necessary food harmless disposal and destruction facilities as needed. Food producers and operators can use the facilities built by the government to carry out harmless disposal or destruction of foods in accordance with provisions.

Article 31 The promoters of centralized food trading markets and the organizers of food trade fairs shall report to the food safety supervision and administration department of the local people's government at county level before the opening of the markets or the holding of the trade fairs.

Article 32 The providers of the third-party platforms for online food transactions shall properly keep the registration information and transaction information of the food traders joining the platforms. The food safety supervision and administration department of the local people's government at or above the county level indeed needs to understand the relevant information in conducting food safety supervision and inspection, food safety case investigation and handling, and food safety accident handling, it may require the providers of the third-party platforms for online food transactions to provide the information after approval by its principal. The providers of the third-party platforms for online food transactions shall provide the same as required. The food safety supervision and administration department of the local people's government at or above the county level and its staff shall be obliged to keep confidential the information provided by the providers of the third-party platforms for online food transactions.

Article 33 The production and operation of genetically modified foods shall be marked clearly, and the marking methods shall be formulated by the food safety supervision and administration department of the State Council in conjunction with the agricultural administration department of the State Council.

Article 34 It is forbidden to use any means including meetings, lectures, and health consultations to organize false propaganda on foods. If the food safety supervision and administration department identifies a false propaganda activity, it shall promptly handle it according to law.

Article 35 Where the production process of health foods involves pre-treatment processes such as raw material extraction and purification, the production enterprises shall have the corresponding pre-treatment capacity of raw materials.

Article 36 A production enterprise of special medical formula foods shall carry out lot by lot inspection of the ex-factory products in accordance with the inspection items stipulated by the national food safety standards.

Specific all-nutritional formula foods in formulas for special medical uses shall be sold to consumers through medical institutions or pharmaceutical retailers. Where the medical institutions and pharmaceutical retailers sell the specific all-nutritional formula foods, they do not need to obtain food business licenses, but they shall comply with the Food Safety Law and the provisions of the Regulation on food sales.

Article 37 The advertisements for specific all-nutritional formula foods in formulas for special medical uses shall be managed as prescription drug advertisements, and other types of special medical formula food advertisements shall be managed as over-the-counter advertisements.

Article 38 No food other than health food may claim to have healthcare functions.

Infant formulas supplemented with optional added substances as per the national food safety standards shall not be named after the optional added substances.

Article 39 The contents of the labels and instructions of special foods shall be consistent with those of the registered or filed labels and instructions. For the sale of special foods, the contents of the food labels and instructions shall be checked for consistency with those of the registered or filed labels and instructions. If they are not consistent, they shall not be sold. The food safety supervision and administration department of the local people's government at or above the provincial level shall publish the labels and instructions for the special foods registered or filed on its website.

Special food shall not be placed together with ordinary food or medicine for sale.

Chapter V Food Inspection

Article 40 The sampling inspection of food shall be carried out in accordance with the food safety standards, the technical requirements for the products of the special foods registered or filed, as well as the inspection items and methods determined by the relevant national regulations.

Article 41 Where the foodstuffs that may be adulterated cannot be inspected in accordance with the inspection items and methods stipulated by the existing food safety standards and the provisions of Article 111 of the Food Safety Law and Article 63 of the Regulation, the food safety supervision and administration department of the State Council may formulate supplementary inspection items and methods for sampling inspection of food, investigation of food safety cases and handling of food safety accidents.

Article 42 Where an application for re-inspection is made in accordance with the provisions of Article 88 of the Food Safety Law, the applicant shall pay the re-inspection fee to the re-inspection agency in advance. If the conclusion of the re-inspection indicates that the food is unqualified, the re-inspection fee shall be borne by the re-inspection applicant; if it indicates that the food is qualified, the re-inspection fee shall be borne by the food safety supervision and administration department that performs the sampling inspection.

The re-inspection agency may not refuse to undertake the re-inspection task without just causes.

Article 43 No unit or individual may publish food inspection information issued by a food inspection agency that has not obtained the qualification confirmation according to law, and may not use the above-mentioned inspection information to rank food and food producers and operators, or to deceive or mislead consumers.

Chapter VI Food import and Export

Article 44 importers importing food and food additives shall report to the entry and exit inspection and quarantine institutions in accordance with the provisions, truthfully declare the relevant information of the products, and accompany the certification materials stipulated by laws and administrative regulations.

Article 45 After the imported food arrives at the port, it shall be stored in the place designated or approved by the entry and exit inspection and quarantine institution; if it needs to be moved, necessary safety protection measures shall be taken in accordance with the requirements of the entry and exit inspection and quarantine institution. Bulk imported food shall be inspected at the unloading port.

Article 46 The national entry and exit inspection and quarantine department may, according to the needs of risk management, implement the system of importing some foods at designated ports.

Article 47 The Health Administrative Department under the State Council shall, in accordance with the provisions of Article 93 of the Food Safety Law, examine the relevant national (regional) standards or international standards submitted by overseas exporters, overseas production enterprises or their authorized importers, and if it considers that they meet the requirements of food safety, they shall be allowed for temporary application and published. Before the publication of the applicable standards temporarily, the food that does not have the national food safety standards shall not be imported.

The food covered by the general standard in the national food safety standard does not belong to those that do not have the national food safety standard as stipulated in Article 93 of the Food Safety Law.

Article 48 importers shall establish an examination system for overseas exporters and overseas production enterprises, focus on examining the formulation and implementation of food safety risk control measures by overseas exporters and overseas production enterprises and whether the food exported to China meets the requirements of the Food Safety Law, the Regulation and other relevant laws and administrative regulations as well as the national food safety standards.

Article 49 Where the importer recalls imported food in accordance with the provisions of Paragraph 3, Article 94 of the Food Safety Law, it shall report the recall and treatment of the food to the food safety supervision and

administration department of the local people's government at the county level and the local entry-exit inspection and quarantine body.

Article 50 If the national entry-exit inspection and quarantine department finds that the registered overseas food production enterprises no longer meet the registration requirements, it shall order them to make rectifications within the prescribed time limit and suspend the import of the food they produce during the rectification period. If the registration requirements are still not met after rectification, the national entry-exit inspection and quarantine department shall cancel the registration of overseas food production enterprises and make an announcement.

Article 51 Where an enterprise engaging in overseas production enterprise has passed the certification of our Good Manufacturing Practice (GMP), hazard analysis and critical control point system (HACCP), the certification agency shall conduct follow-up investigation according to law. For enterprises that no longer meet the certification requirements, the certification agency shall revoke the certification according to law and announce it to the public.

Article 52 Where a food safety incident occurred outside China may affect China, or serious food safety problems are found in imported food, food additives and food-related products, the national entry-exit inspection and quarantine department shall timely carry out risk warning and may take the following control measures on related food, food additives and food-related products:

- (1) Return or destruction;
- (2) Restricting imports conditionally;
- (3) Suspension or prohibition of import.

Article 53 Production enterprises exporting food and food additives shall ensure that their exported food and food additives meet the standards or contract requirements of the importing country (region); If there are requirements in international treaties and agreements concluded or acceded to by our country, they shall also conform to the requirements of international treaties and agreements.

Chapter VII Responses to Food Safety Incidents

Article 54 Food safety accidents shall be managed at different levels according to the national emergency plan for food safety accidents. The food safety supervision and administration department of the people's government at or above the county level shall be responsible for the investigation and handling of food safety accidents in conjunction with the relevant departments at the same level.

The people's government at or above the county level shall timely revise and improve the emergency plan for food safety accidents according to the actual situation.

Article 55 The people's governments at or above the county level shall improve the emergency management mechanism for food safety accidents, improve emergency equipment, make great efforts in emergency reserve and the construction of emergency teams, and strengthen emergency training and exercises.

Article 56 A unit that has a food safety accident shall immediately take control measures such as sealing up the food and raw materials, tools, equipment and facilities that cause or may cause the food safety accident.

Article 57 After receiving the food safety accident report, the food safety supervision and administration department of the people's government at or above the county level shall immediately investigate and deal with it in conjunction with the health administration and agricultural administration departments at the same level in accordance with the provisions of Article 105 of the Food Safety Law. The food safety supervision and administration department shall protect the food and raw materials, tools, equipment, facilities, etc. sealed by the accident unit. Those that need to be sealed up but have not yet been sealed up by the accident unit shall be sealed up directly or ordered to be sealed up immediately, and the disease prevention and control institution shall be notified to carry out epidemiological investigation on factors related to the accident.

The disease prevention and control institution shall submit an epidemiological investigation report to the food safety supervision and administration department and the health administrative department at the same level after the investigation is completed.

No unit or individual may refuse or obstruct the disease prevention and control institutions to carry out epidemiological investigations. Relevant departments shall assist the disease prevention and control institutions in carrying out epidemiological investigations.

Article 58 The food safety supervision and administration department under the State Council, in conjunction with the departments of health administration and agriculture administration under the State Council, shall regularly analyze the situation of food safety accidents throughout the country, improve the food safety supervision and administration measures, and prevent and reduce the occurrence of accidents.

Chapter VIII Supervision and Administration

Article 59 The food safety supervision and administration department of the people's government at or above the city level divided into districts may, according to the needs of the supervision and administration work, carry out random supervision and inspection on the food producers and operators who are under the daily supervision and administration of the food safety supervision and administration department of the people's government at a lower level, or organize the food safety supervision and administration department of the people's government at a lower level to carry out remote supervision and inspection on the food producers and operators.

The food safety supervision and administration department of the people's government at or above the city level divided into districts may, if they deem it necessary, directly investigate and handle cases of food safety violations under the jurisdiction of the food safety supervision and administration departments of the people's governments at lower levels, or designate other food safety supervision and administration departments of the people's governments at lower levels to investigate and handle such cases.

Article 60 The State shall establish a system of food safety inspectors, relying on existing resources to strengthen

the construction of professional inspectors, strengthen examination and training, and improve the professional level of inspectors.

Article 61 The food safety supervision and administration department of the people's government at or above the county level shall, in accordance with the provisions of Article 110 of the Food Safety Law, implement the measures of sealing up and detention, and the period of sealing up and detention shall not exceed 30 days. If the situation is complicated, it may be extended for no more than 45 days upon the approval of the person in charge of the food safety supervision and administration department that implements the sealing up and detention measures.

Article 62 In case of serious consequences caused by the illegal operation of online food business operators or the illegal operation of online food business operators on the third-party platform for online food transactions, the food safety supervision and administration department of the people's government at or above the county level may conduct responsible interviews with the legal representative or principal responsible person of the providers of the third-party platforms for online food transactions.

Article 63 The food safety supervision and administration department under the State Council, in conjunction with the health administration department under the State Council, shall, according to the information on food-borne diseases, food safety risk monitoring information, supervision and administration information, etc., formulate a list and test methods for non-food chemicals and other substances that may endanger human health that are found to be added or may be added to food and publish them.

Article 64 The health administrative department of the local people's government at or above the county level shall supervise and inspect the centralized disinfection service units for tableware and drinkware, and shall promptly investigate and deal with any non-compliance with the requirements of laws, regulations, relevant national standards and relevant health standards. The results of supervision and inspection shall be announced to the public.

Article 65 The State shall implement a reward system for reporting food safety violations, and rewards informants for verified reports. Informants reporting major food safety violations and crimes in their enterprises shall increase their rewards. The competent authorities shall keep confidential the reporters' information and protect their legitimate interests. Measures for rewarding the reporting of food safety violations shall be formulated by the food safety supervision and administration department of the State Council in conjunction with the finance department of the State Council and other relevant departments.

Reward funds for reporting food safety violations shall be included in the budgets of people's governments at all levels.

Article 66 The food safety supervision and administration department of the State Council shall, in conjunction with the relevant departments of the State Council, establish a joint incentive mechanism for keeping promises and a joint disciplinary mechanism for breaking promises. In combination with the credit files of food producers and operators, a blacklist system for serious illegal producers and operators shall be established to link up the credit status of food safety with access, financing, credit and loan, credit investigation, etc. and announce it to the public in a timely manner.

Chapter IX Legal Liabilities

Article 67 In case of any of the following circumstances, the circumstances are as serious as those specified in Articles 123~126 and 132 of Food Safety Law as well as Articles 72 and 73 specified in the Regulation:

- (1) The value of the products involved in the illegal act is more than RMB 20,000 yuan or the duration of the illegal act is more than 3 months;
- (2) Causing food-borne diseases and deaths, or causing more than 30 food-borne diseases but no deaths;
- (3) Deliberately providing false information or concealing the true situation;
- (4) Refusal or evasion of supervision and inspection;
- (5) Another food safety violation of the same nature within one year after being subject to administrative punishment for violating food safety laws and regulations, or another food safety violation after being subject to criminal punishment for violating food safety laws and regulations;
- (6) Other serious cases.

When imposing a fine on an illegal act of a serious nature, the penalty shall be heavier and stricter in accordance with the law.

Article 68 Any of the following circumstances shall be punished in accordance with Paragraph 1 of Article 125 of the Food Safety Law and Article 75 of the Regulation:

- (1) Substances in the list formulated in accordance with the provisions of Article 63 of the Regulation are stored at food production and processing sites;
- (2) The labels and instructions of foods other than the health food produced and sold claim to have health care functions;
- (3) Formula foods for infants and young children are named according to the selective additives specified in the national standards for food safety;
- (4) The contents of the labels and instructions of the special food produced and operated are inconsistent with those of the registered or filed labels and instructions.

Article 69 Any of the following circumstances shall be punished in accordance with Paragraph 1 of Article 126 of the Food Safety Law and Article 75 of the Regulation:

- (1) Relevant departments accept the entrustment of the food producers and operators to store and transport the food, but fail to record and keep the information in accordance with the provisions;
- (2) The food and beverage service providers fail to inspect and retain a copy of the business license of the centralized disinfection service unit for tableware and drinkware and the certificate of disinfection qualification;
- (3) The food producers and operators fail to mark or store the deteriorated food, the food that has passed the shelf life or the food that has been recycled in accordance with the provisions, or fail to take measures such as harmless treatment and destruction of the aforesaid food in a timely manner and fail to make truthful records;
- (4) Units or individuals other than medical institutions and pharmaceutical retailers sell to special total nutritional formula food in formula food for special medical use to consumers;
- (5) Special food is placed together with ordinary food or medicine for sale.

Article 70 Except as provided for in Paragraph 1 of Article 125 and Article 126 of the Food Safety Law, if the production and operation of food producers and operators fails to comply with the provisions of Item 5, Items 7 to 10 of Paragraph 1 of Article 33 of the Food Safety Law, or fails to comply with the national standards for food safety as required by the food production and operation process, the food producers and operators shall be punished in accordance with Paragraph 1 of Article 126 of the Food Safety Law and Article 75 of the Regulation.

Article 71 Where a centralized disinfection service unit for tableware and drinkware fails to establish and abide by the delivery inspection record system in accordance with the provisions, the administrative department of public health of the people's government at or above the county level shall impose a penalty in accordance with the provisions of Paragraph 1 of Article 126 of the Food Safety Law and Article 75 of the Regulation.

Article 72 The food safety supervision and administration department of the local people's government at or above the county level shall order rectification and give a warning to the non-food producers and operators engaged in the food storage business with special requirements for temperature and humidity, the founders of centralized food trading markets and the organizers of food exhibitions who fail to put on record or report in accordance with the relevant provisions. Those who refuse to make corrections shall accept a fine of no less than RMB 10,000 yuan but no more than RMB 50,000 yuan; if the circumstances are serious, the enterprise shall be ordered to suspend production or business, and a fine of no less than RMB 50,000 yuan but no more than RMB 200,000 yuan shall be imposed.

Article 73 Whoever makes false propaganda on food by means of meetings, lectures or health consultations shall be ordered by the food safety supervision and administration department of the local people's government at or above the county level to eliminate the influence, and if there is any illegal income, the illegal income shall be confiscated; If the circumstances are serious, the offender shall be punished in accordance with Paragraph 5 of Article 140 of the Food Safety Law; Where an entity violates the law, the legal representative, the principal responsible person, the person in charge who is directly responsible and other persons who are directly responsible for the entity shall also be punished in accordance with the provisions of Article 75 of the Regulation.

Article 74 Where the food produced and operated by the food producers and operators meets the food safety standards but does not meet the food safety indicators specified in the enterprise standards marked on the food, the food safety supervision and administration department of the local people's government at or above the county level shall give a warning, order the food operators to stop operating the food, and order the food production enterprises to make corrections; If the enterprise refuses to stop its operation or make corrections, the food that does not conform to the food safety indicators specified in the enterprise standards shall be confiscated, and if the value of the food is less than RMB 10,000 yuan, the enterprise shall be fined for no less than RMB 10,000 yuan but no more than RMB 50,000 yuan, and if the value of the food is not less than RMB 10,000 yuan, the enterprise shall be fined for no less than 5 times but no more than 10 times the value of the food.

Article 75 Where a food production and operation enterprise or any other entity is found to be in violation of the provisions of the Food Safety Law, in addition to the penalties imposed in accordance with the provisions of the Food Safety Law, in any of the following cases, the legal representative, principal responsible person, directly responsible person and other directly responsible persons of the unit shall be fined for no less than 1 time but no more than 10 times of the income obtained from the unit in the previous year:

- (1) Intentionally committing an illegal act;
- (2) The nature of the illegal act is bad;

(3) The illegal act has serious consequences.

The provisions of the preceding paragraph shall not apply to the circumstances specified in Paragraph 2 of Article 125 of the Food Safety Law.

Article 76 If food producers and operators stop production and business operation or carry out food recall or take other effective measures to mitigate or eliminate food safety risks in accordance with the provisions of the first and second paragraphs of Article 63 of the Food Safety Law, and do not cause harmful consequences, the penalty may be lightened or mitigated.

Article 77 The food safety supervision and administration departments of the local people's governments at or above the county level shall promptly transfer the case and relevant materials to the public security organs at the same level in case of any serious violation of the provisions of Article 123 of the Food Safety Law and where administrative detention may be necessary. If the public security organ deems it necessary to supplement the materials, the food safety supervision and administration departments shall provide them in a timely manner. If the public security organ, after examination, finds that the conditions of administrative detention are not met, it shall promptly return the case and relevant materials to the food safety supervision and administration department transferred.

Article 78 Where a public security organ, after examining the fact that there is no crime or after filing a case for investigation, does not consider it necessary to investigate the criminal responsibility of the food safety violations discovered, but should impose administrative detention according to law, it shall promptly make a decision on the punishment of administrative detention; If administrative detention is not necessary but other administrative responsibilities should be investigated according to law, the case and relevant materials shall be transferred to the food safety supervision and administration department at the same level in a timely manner.

Article 79 If the re-inspection institution refuses to undertake the re-inspection task without justifiable reasons, the food safety supervision and administration department of the local people's government at or above the county level shall give a warning. If the re-inspection institution refuses to undertake the re-inspection task twice within one year without justifiable reasons, the relevant department of the State Council shall revoke its qualification as a re-inspection institution and announce it to the public.

Article 80 To promulgate the food inspection information issued by the food inspection agencies that have not obtained the qualification certification according to law, or use the aforesaid inspection information to grade food or food producers and operators, and deceive or mislead consumers, the food safety supervision and administration department of the local people's government at or above the county level shall order them to make corrections. If any illegal income is obtained, the illegal income shall be confiscated and a fine of no less than RMB 100,000 yuan but no more than RMB 500,000 yuan shall be imposed. Whoever refuses to make corrections shall be fined for no less than RMB 500,000 yuan but no more than RMB 1,000,000 yuan; If an act constitutes a violation of public security administration, the public security organ shall impose a penalty for public security administration according to law.

Article 81 Where the food safety supervision and administration department imposes a fine of no less than RMB 300,000 yuan on an illegal unit or individual in accordance with the Food Safety Law and the Regulation, the food safety supervision and administration department of the local people's government at or above the municipal level shall make a decision. The specific power to impose fines shall be prescribed by the food safety supervision and administration department under the State Council.

Article 82 If any obstruction to the staff of the food safety supervision and administration departments in the performance of their duties according to law constitutes an act in violation of public security administration, the public security organ shall impose a penalty for public security administration according to law.

Article 83 Where the food safety supervision and administration department of the people's government at or above the county level discovers that a unit or individual has fabricated or disseminated false food safety information in violation of the provisions of Paragraph 1 of Article 120 of the Food Safety Law and is suspected of constituting an act in violation of public security administration, the situation shall be notified to the public security organ at the same level.

Article 84 Where the food safety supervision and administration department of the local people's government at or above the county level and its staff members illegally provide information provided by the providers of the third-party platforms for online food transactions to others, they shall be punished in accordance with the provisions of Article 145 of the Food Safety Law.

Article 85 Whoever violates the provisions of the Regulation and constitutes a crime shall be investigated for criminal responsibility according to law.

Chapter X Supplementary Provisions

Article 86 The Regulation shall come into force as of December 1, 2019.

Original Chinese Document listed Below

中华人民共和国国务院令

第 721 号

《中华人民共和国食品安全法实施条例》已经 2019 年 3 月 26 日国务院第 42 次常务会议修订通过，现将修订后的《中华人民共和国食品安全法实施条例》公布，自 2019 年 12 月 1 日起施行。

总 理 李克强
2019 年 10 月 11 日

中华人民共和国食品安全法实施条例

(2009 年 7 月 20 日中华人民共和国国务院令 第 557 号公布
根据 2016 年 2 月 6 日《国务院关于修改部分行政法规的决定》
修订 2019 年 3 月 26 日国务院第 42 次常务会议修订通过)

第一章 总 则

第一条 根据《中华人民共和国食品安全法》（以下简称食品安全法），制定本条例。

第二条 食品生产经营者应当依照法律、法规和食品安全标准从事生产经营活动，建立健全食品安全管理制度，采取有效措施预防和控制食品安全风险，保证食品安全。

第三条 国务院食品安全委员会负责分析食品安全形势，研究部署、统筹指导食品安全工作，提出食品安全监督管理的重大政策措施，督促落实食品安全监督管理责任。县级以上地方人民政府食品安全委员会按照本级人民政府规定的职责开展工作。

第四条 县级以上人民政府建立统一权威的食品安全监督管理体制，加强食品安全监督管理能力建设。

县级以上人民政府食品安全监督管理部门和其他有关部门应当依法履行职责，加强协调配合，做好食品安全监督管理工作。

乡镇人民政府和街道办事处应当支持、协助县级人民政府食品安全监督管理部门及其派出机构依法开展食品安全监督管理工作。

第五条 国家将食品安全知识纳入国民素质教育内容，普及食品安全科学常识和法律知识，提高全社会的食品安全意识。

第二章 食品安全风险监测和评估

第六条 县级以上人民政府卫生行政部门会同同级食品安全监督管理等部门建立食品安全风险监测会商机制，汇总、分析风险监测数据，研判食品安全风险，形成食品安全风险监测分析报告，报本级人民政府；县级以上地方人民政府卫生行政部门还应当将食品安全风险监测分析报告同时报上一级人民政府卫生行政部门。食品安全风险监测会商的具体办法由国务院卫生行政部门会同国务院食品安全监督管理等部门制定。

第七条 食品安全风险监测结果表明存在食品安全隐患，食品安全监督管理等部门经进一步调查确认有必要通知相关食品生产经营者的，应当及时通知。

接到通知的食品生产者应当立即进行自查，发现食品不符合食品安全标准或者有证据证明可能危害人体健康的，应当依照食品安全法第六十三条的规定停止生产、经营，实施食品召回，并报告相关情况。

第八条 国务院卫生行政、食品安全监督管理等部门发现需要对农药、肥料、兽药、饲料和饲料添加剂等进行安全性评估的，应当向国务院农业行政部门提出安全性评估建议。国务院农业行政部门应当及时组织评估，并向国务院有关部门通报评估结果。

第九条 国务院食品安全监督管理部门和其他有关部门建立食品安全风险信息交流机制，明确食品安全风险信息交流的内容、程序和要求。

第三章 食品安全标准

第十条 国务院卫生行政部门会同国务院食品安全监督管理、农业行政等部门制定食品安全国家标准规划及其年度实施计划。国务院卫生行政部门应当在其网站上公布食品安全国家标准规划及其年度实施计划的草案，公开征求意见。

第十一条 省、自治区、直辖市人民政府卫生行政部门依照食品安全法第二十九条的规定制定食品安全地方标准，应当公开征求意见。省、自治区、直辖市人民政府卫生行政部门应当自食品安全地方标准公布之日起 30 个工作日内，将地方标准报国务院卫生行政部门备案。国务院卫生行政部门发现备案的食品安全地方标准违反法律、法规或者食品安全国家标准的，应当及时予以纠正。

食品安全地方标准依法废止的，省、自治区、直辖市人民政府卫生行政部门应当及时在其网站上公布废止情况。

第十二条 保健食品、特殊医学用途配方食品、婴幼儿配方食品等特殊食品不属于地方特色食品，不得对其制定食品安全地方标准。

第十三条 食品安全标准公布后，食品生产者可以在食品安全标准规定的实施日期之前实施并公开提前实施情况。

第十四条 食品生产企业不得制定低于食品安全国家标准或者地方标准要求的企 业标准。食品生产企业制定食品安全指标严于食品安全国家标准或者地方标准的企业标准的，应当报省、自治区、直辖市人民政府卫生行政部门备案。

食品生产企业制定企业标准的，应当公开，供公众免费查阅。

第四章 食品生产经营

第十五条 食品生产经营许可的有效期为 5 年。

食品生产经营者的生产经营条件发生变化，不再符合食品生产经营要求的，食品生产经营者应当立即采取整改措施；需要重新办理许可手续的，应当依法办理。

第十六条 国务院卫生行政部门应当及时公布新的食品原料、食品添加剂新品种和食品相关产品新品种目录以及所适用的食品安全国家标准。

对按照传统既是食品又是中药材的物质目录，国务院卫生行政部门会同国务院食品安全监督管理部门应当及时更新。

第十七条 国务院食品安全监督管理部门会同国务院农业行政等有关部门明确食品安全全程追溯基本要求，指导食品生产经营者通过信息化手段建立、完善食品安全追溯体系。

食品安全监督管理等部门应当将婴幼儿配方食品等针对特定人群的食品以及其他食品安全风险较高或者销售量大的食品的追溯体系建设作为监督检查的重点。

第十八条 食品生产经营者应当建立食品安全追溯体系，依照食品安全法的规定如实记录并保存进货查验、出厂检验、食品销售等信息，保证食品可追溯。

第十九条 食品生产经营企业的主要负责人对本企业的食品安全工作全面负责，建立并落实本企业的食品安全责任制，加强供货者管理、进货查验和出厂检验、生产经营过程控制、食品安全自查等工作。食品生产经营企业的食品安全管理人员应当协助企业主要负责人做好食品安全管理工作。

第二十条 食品生产经营企业应当加强对食品安全管理人员的培训和考核。食品安全管理人员应当掌握与其岗位相适应的食品安全法律、法规、标准和专业知识，具备食品安全管理能力。食品安全监督管理部门应当对企业食品安全管理人员进行随机监督检查考核。考核指南由国务院食品安全监督管理部门制定、公布。

第二十一条 食品、食品添加剂生产经营者委托生产食品、食品添加剂的，应当委托取得食品生产许可、食品添加剂生产许可的生产者生产，并对其生产行为进行监督，对委托生产的食品、食品添加剂的安全负责。受托方应当依照法律、法规、食品安全标准以及合同约定进行生产，对生产行为负责，并接受委托方的监督。

第二十二条 食品生产经营者不得在食品生产、加工场所贮存依照本条例第六十三条规定制定的名录中的物质。

第二十三条 对食品进行辐照加工，应当遵守食品安全国家标准，并按照食品安全国家标准的要求对辐照加工食品进行检验和标注。

第二十四条 贮存、运输对温度、湿度等有特殊要求的食品，应当具备保温、冷藏或者冷冻等设备设施，并保持有效运行。

第二十五条 食品生产经营者委托贮存、运输食品的，应当对受托方的食品安全保障能力进行审核，并监督受托方按照保证食品安全的要求贮存、运输食品。受托方应当保证食品贮存、运输条件符合食品安全的要求，加强食品贮存、运输过程管理。

接受食品生产经营者委托贮存、运输食品的，应当如实记录委托方和收货方的名称、地址、联系方式等内容。记录保存期限不得少于贮存、运输结束后2年。

非食品生产经营者从事对温度、湿度等有特殊要求的食品贮存业务的，应当自取得营业执照之日起30个工作日内向所在地县级人民政府食品安全监督管理部门备案。

第二十六条 餐饮服务提供者委托餐具饮具集中消毒服务单位提供清洗消毒服务的，应当查验、留存餐具饮具集中消毒服务单位的营业执照复印件和消毒合格证明。保存期限不得少于消毒餐具饮具使用期限到期后6个月。

第二十七条 餐具饮具集中消毒服务单位应当建立餐具饮具出厂检验记录制度，如实记录出厂餐具饮具的数量、消毒日期和批号、使用期限、出厂日期以及委托方名称、地址、联系方

式等内容。出厂检验记录保存期限不得少于消毒餐具饮具使用期限到期后6个月。消毒后的餐具饮具应当在独立包装上标注单位名称、地址、联系方式、消毒日期和批号以及使用期限等内容。

第二十八条 学校、托幼机构、养老机构、建筑工地等集中用餐单位的食堂应当执行原料控制、餐具饮具清洗消毒、食品留样等制度，并依照食品安全法第四十七条的规定定期开展食堂食品安全自查。

承包经营集中用餐单位食堂的，应当依法取得食品经营许可，并对食堂的食品安全负责。集中用餐单位应当督促承包方落实食品安全管理制度，承担管理责任。

第二十九条 食品生产经营者应当对变质、超过保质期或者回收的食品进行显著标示或者单独存放在有明确标志的场所，及时采取无害化处理、销毁等措施并如实记录。

食品安全法所称回收食品，是指已经售出，因违反法律、法规、食品安全标准或者超过保质期等原因，被召回或者退回的食品，不包括依照食品安全法第六十三条第三款的规定可以继续销售的食品。

第三十条 县级以上地方人民政府根据需要建设必要的食品无害化处理和销毁设施。食品生产经营者可以按照规定使用政府建设的设施对食品进行无害化处理或者予以销毁。

第三十一条 食品集中交易市场的开办者、食品展销会的举办者应当在市场开业或者展销会举办前向所在地县级人民政府食品安全监督管理部门报告。

第三十二条 网络食品交易第三方平台提供者应当妥善保存入网经营者的登记信息和交易信息。县级以上人民政府食品安全监督管理部门开展食品安全监督检查、食品安全案件调查处理、食品安全事故处置确需了解有关信息的，经其负责人批准，可以要求网络食品交易第三方平台提供者提供，网络食品交易第三方平台提供者应当按照要求提供。县级以上人民政府食品安全监督管理部门及其工作人员对网络食品交易第三方平台提供者提供的信息依法负有保密义务。

第三十三条 生产经营转基因食品应当显著标示，标示办法由国务院食品安全监督管理部门会同国务院农业行政部门制定。

第三十四条 禁止利用包括会议、讲座、健康咨询在内的任何方式对食品进行虚假宣传。食品安全监督管理部门发现虚假宣传行为的，应当依法及时处理。

第三十五条 保健食品生产工艺有原料提取、纯化等前处理工序的，生产企业应当具备相应的原料前处理能力。

第三十六条 特殊医学用途配方食品生产企业应当按照食品安全国家标准规定的检验项目对出厂产品实施逐批检验。

特殊医学用途配方食品中的特定全营养配方食品应当通过医疗机构或者药品零售企业向消费者销售。医疗机构、药品零售企业销售特定全营养配方食品的，不需要取得食品经营许可，但是应当遵守食品安全法和本条例关于食品销售的规定。

第三十七条 特殊医学用途配方食品中的特定全营养配方食品广告按照处方药广告管理，其他类别的特殊医学用途配方食品广告按照非处方药广告管理。

第三十八条 对保健食品之外的其他食品，不得声称具有保健功能。

对添加食品安全国家标准规定的选择性添加物质的婴幼儿配方食品，不得以选择性添加物质命名。

第三十九条 特殊食品的标签、说明书内容应当与注册或者备案的标签、说明书一致。销售特殊食品，应当核对食品标签、说明书内容是否与注册或者备案的标签、说明书一致，不一

致的不得销售。省级以上人民政府食品安全监督管理部门应当在其网站上公布注册或者备案的特殊食品的标签、说明书。

特殊食品不得与普通食品或者药品混放销售。

第五章 食品检验

第四十条 对食品进行抽样检验，应当按照食品安全标准、注册或者备案的特殊食品的产品技术要求以及国家有关规定确定的检验项目和检验方法进行。

第四十一条 对可能掺杂掺假的食品，按照现有食品安全标准规定的检验项目和检验方法以及依照食品安全法第一百一十一条和本条例第六十三条规定制定的检验项目和检验方法无法检验的，国务院食品安全监督管理部门可以制定补充检验项目和检验方法，用于对食品的抽样检验、食品安全案件调查处理和食品安全事故处置。

第四十二条 依照食品安全法第八十八条的规定申请复检的，申请人应当向复检机构先行支付复检费用。复检结论表明食品不合格的，复检费用由复检申请人承担；复检结论表明食品合格的，复检费用由实施抽样检验的食品安全监督管理部门承担。

复检机构无正当理由不得拒绝承担复检任务。

第四十三条 任何单位和个人不得发布未依法取得资质认定的食品检验机构出具的食品检验信息，不得利用上述检验信息对食品、食品生产经营者进行等级评定，欺骗、误导消费者。

第六章 食品进出口

第四十四条 进口商进口食品、食品添加剂，应当按照规定向出入境检验检疫机构报检，如实申报产品相关信息，并随附法律、行政法规规定的合格证明材料。

第四十五条 进口食品运达口岸后，应当存放在出入境检验检疫机构指定或者认可的场所；需要移动的，应当按照出入境检验检疫机构的要求采取必要的安全防护措施。大宗散装进口食品应当在卸货口岸进行检验。

第四十六条 国家出入境检验检疫部门根据风险管理需要，可以对部分食品实行指定口岸进口。

第四十七条 国务院卫生行政部门依照食品安全法第九十三条的规定对境外出口商、境外生产企业或者其委托的进口商提交的相关国家（地区）标准或者国际标准进行审查，认为符合食品安全要求的，决定暂予适用并予以公布；暂予适用的标准公布前，不得进口尚无食品安全国家标准的食品。

食品安全国家标准中通用标准已经涵盖的食品不属于食品安全法第九十三条规定的尚无食品安全国家标准的食品。

第四十八条 进口商应当建立境外出口商、境外生产企业审核制度，重点审核境外出口商、境外生产企业制定和执行食品安全风险控制措施的情况以及向我国出口的食品是否符合食品安全法、本条例和其他有关法律、行政法规的规定以及食品安全国家标准的要求。

第四十九条 进口商依照食品安全法第九十四条第三款的规定召回进口食品的，应当将食品召回和处理情况向所在地县级人民政府食品安全监督管理部门和所在地出入境检验检疫机构报告。

第五十条 国家出入境检验检疫部门发现已经注册的境外食品生产企业不再符合注册要求的，应当责令其在规定期限内整改，整改期间暂停进口其生产的食品；经整改仍不符合注册要求的，国家出入境检验检疫部门应当撤销境外食品生产企业注册并公告。

第五十一条 对通过我国良好生产规范、危害分析与关键控制点体系认证的境外生产企业，认证机构应当依法实施跟踪调查。对不再符合认证要求的企业，认证机构应当依法撤销认证并向社会公布。

第五十二条 境外发生的食品安全事件可能对我国境内造成影响，或者在进口食品、食品添加剂、食品相关产品中发现严重食品安全问题的，国家出入境检验检疫部门应当及时进行风险预警，并可以对相关的食品、食品添加剂、食品相关产品采取下列控制措施：

- (一) 退货或者销毁处理；
- (二) 有条件地限制进口；
- (三) 暂停或者禁止进口。

第五十三条 出口食品、食品添加剂的生产企业应当保证其出口食品、食品添加剂符合进口国家（地区）的标准或者合同要求；我国缔结或者参加的国际条约、协定有要求的，还应当符合国际条约、协定的要求。

第七章 食品安全事故处置

第五十四条 食品安全事故按照国家食品安全事故应急预案实行分级管理。县级以上人民政府食品安全监督管理部门会同同级有关部门负责食品安全事故调查处理。

县级以上人民政府应当根据实际情况及时修改、完善食品安全事故应急预案。

第五十五条 县级以上人民政府应当完善食品安全事故应急管理机制，改善应急装备，做好应急物资储备和应急队伍建设，加强应急培训、演练。

第五十六条 发生食品安全事故的单位应当对导致或者可能导致食品安全事故的食品及原料、工具、设备、设施等，立即采取封存等控制措施。

第五十七条 县级以上人民政府食品安全监督管理部门接到食品安全事故报告后，应当立即会同同级卫生行政、农业行政等部门依照食品安全法第一百零五条的规定进行调查处理。食品安全监督管理部门应当对事故单位封存的食品及原料、工具、设备、设施等予以保护，需要封存而事故单位尚未封存的应当直接封存或者责令事故单位立即封存，并通知疾病预防控制机构对与事故有关的因素开展流行病学调查。

疾病预防控制机构应当在调查结束后向同级食品安全监督管理、卫生行政部门同时提交流行病学调查报告。

任何单位和个人不得拒绝、阻挠疾病预防控制机构开展流行病学调查。有关部门应当对疾病预防控制机构开展流行病学调查予以协助。

第五十八条 国务院食品安全监督管理部门会同国务院卫生行政、农业行政等部门定期对全国食品安全事故情况进行分析，完善食品安全监督管理措施，预防和减少事故的发生。

第八章 监督管理

第五十九条 设区的市级以上人民政府食品安全监督管理部门根据监督管理工作需要，可以对由下级人民政府食品安全监督管理部门负责日常监督管理的食品生产经营者实施随机监督检查，也可以组织下级人民政府食品安全监督管理部门对食品生产经营者实施异地监督检查。

设区的市级以上人民政府食品安全监督管理部门认为必要的，可以直接调查处理下级人民政府食品安全监督管理部门管辖的食品安全违法案件，也可以指定其他下级人民政府食品安全监督管理部门调查处理。

第六十条 国家建立食品安全检查员制度，依托现有资源加强职业化检查员队伍建设，强化考核培训，提高检查员专业化水平。

第六十一条 县级以上人民政府食品安全监督管理部门依照食品安全法第一百一十条的规定实施查封、扣押措施，查封、扣押的期限不得超过 30 日；情况复杂的，经实施查封、扣押措施的食品安全监督管理部门负责人批准，可以延长，延长期限不得超过 45 日。

第六十二条 网络食品交易第三方平台多次出现入网食品经营者违法经营或者入网食品经营者的违法经营行为造成严重后果的，县级以上人民政府食品安全监督管理部门可以对网络食品交易第三方平台提供者的法定代表人或者主要负责人进行责任约谈。

第六十三条 国务院食品安全监督管理部门会同国务院卫生行政等部门根据食源性疾病预防信息、食品安全风险监测信息和监督管理信息等，对发现的添加或者可能添加到食品中的非食品用化学物质和其他可能危害人体健康的物质，制定名录及检测方法并予以公布。

第六十四条 县级以上地方人民政府卫生行政部门应当对餐具饮具集中消毒服务单位进行监督检查，发现不符合法律、法规、国家相关标准以及相关卫生规范等要求的，应当及时调查处理。监督检查的结果应当向社会公布。

第六十五条 国家实行食品安全违法行为举报奖励制度，对查证属实的举报，给予举报人奖励。举报人举报所在企业食品安全重大违法犯罪行为的，应当加大奖励力度。有关部门应当对举报人的信息予以保密，保护举报人的合法权益。食品安全违法行为举报奖励办法由国务院食品安全监督管理部门会同国务院财政等有关部门制定。

食品安全违法行为举报奖励资金纳入各级人民政府预算。

第六十六条 国务院食品安全监督管理部门应当会同国务院有关部门建立守信联合激励和失信联合惩戒机制，结合食品生产经营者信用档案，建立严重违法生产经营者黑名单制度，将食品安全信用状况与准入、融资、信贷、征信等相衔接，及时向社会公布。

第九章 法律责任

第六十七条 有下列情形之一的，属于食品安全法第一百二十三条至第一百二十六条、第一百三十二条以及本条例第七十二条、第七十三条规定的情节严重情形：

- (一) 违法行为涉及的产品货值金额 2 万元以上或者违法行为持续时间 3 个月以上；
- (二) 造成食源性疾病预防并出现死亡病例，或者造成 30 人以上食源性疾病预防但未出现死亡病例；
- (三) 故意提供虚假信息或者隐瞒真实情况；
- (四) 拒绝、逃避监督检查；
- (五) 因违反食品安全法律、法规受到行政处罚后 1 年内又实施同一性质的食品安全违法行为，或者因违反食品安全法律、法规受到刑事处罚后又实施食品安全违法行为；
- (六) 其他情节严重的情形。

对情节严重的违法行为处以罚款时，应当依法从重从严。

第六十八条 有下列情形之一的，依照食品安全法第一百二十五条第一款、本条例第七十五条的规定给予处罚：

- (一) 在食品生产、加工场所贮存依照本条例第六十三条规定制定的名录中的物质；

- (二) 生产经营的保健食品之外的食品的标签、说明书声称具有保健功能;
- (三) 以食品安全国家标准规定的选择性添加物质命名婴幼儿配方食品;
- (四) 生产经营的特殊食品的标签、说明书内容与注册或者备案的标签、说明书不一致。

第六十九条 有下列情形之一的，依照食品安全法第一百二十六条第一款、本条例第七十五条的规定给予处罚：

- (一) 接受食品生产者委托贮存、运输食品，未按照规定记录保存信息；
- (二) 餐饮服务提供者未查验、留存餐具饮具集中消毒服务单位的营业执照复印件和消毒合格证明；
- (三) 食品生产者未按照规定对变质、超过保质期或者回收的食品进行标示或者存放，或者未及时对上述食品采取无害化处理、销毁等措施并如实记录；
- (四) 医疗机构和药品零售企业之外的单位或者个人向消费者销售特殊医学用途配方食品中的特定全营养配方食品；
- (五) 将特殊食品与普通食品或者药品混放销售。

第七十条 除食品安全法第一百二十五条第一款、第一百二十六条规定的情形外，食品生产者的生产经营行为不符合食品安全法第三十三条第一款第五项、第七项至第十项的规定，或者不符合有关食品生产经营过程要求的食品安全国家标准的，依照食品安全法第一百二十六条第一款、本条例第七十五条的规定给予处罚。

第七十一条 餐具饮具集中消毒服务单位未按照规定建立并遵守出厂检验记录制度的，由县级以上人民政府卫生行政部门依照食品安全法第一百二十六条第一款、本条例第七十五条的规定给予处罚。

第七十二条 从事对温度、湿度等有特殊要求的食品贮存业务的非食品生产者，食品集中交易市场的开办者、食品展销会的举办者，未按照规定备案或者报告的，由县级以上人民政府食品安全监督管理部门责令改正，给予警告；拒不改正的，处1万元以上5万元以下罚款；情节严重的，责令停产停业，并处5万元以上20万元以下罚款。

第七十三条 利用会议、讲座、健康咨询等方式对食品进行虚假宣传的，由县级以上人民政府食品安全监督管理部门责令消除影响，有违法所得的，没收违法所得；情节严重的，依照食品安全法第一百四十五条的规定进行处罚；属于单位违法的，还应当依照本条例第七十五条的规定对单位的法定代表人、主要负责人、直接负责的主管人员和其他直接责任人员给予处罚。

第七十四条 食品生产者生产经营的食品符合食品安全标准但不符合食品所标注的企业标准规定的食品安全指标的，由县级以上人民政府食品安全监督管理部门给予警告，并责令食品经营者停止经营该食品，责令食品生产企业改正；拒不停止经营或者改正的，没收不符合企业标准规定的食品安全指标的食品，货值金额不足1万元的，并处1万元以上5万元以下罚款，货值金额1万元以上的，并处货值金额5倍以上10倍以下罚款。

第七十五条 食品生产经营企业等单位有食品安全法规定的违法情形，除依照食品安全法的规定给予处罚外，有下列情形之一的，对单位的法定代表人、主要负责人、直接负责的主管人员和其他直接责任人员处以其上一年度从本单位取得收入的1倍以上10倍以下罚款：

- (一) 故意实施违法行为；
- (二) 违法行为性质恶劣；
- (三) 违法行为造成严重后果。

属于食品安全法第一百二十五条第二款规定情形的，不适用前款规定。

第七十六条 食品生产经营者依照食品安全法第六十三条第一款、第二款的规定停止生产、经营，实施食品召回，或者采取其他有效措施减轻或者消除食品安全风险，未造成危害后果的，可以从轻或者减轻处罚。

第七十七条 县级以上地方人民政府食品安全监督管理等部门对有食品安全法第一百二十三条规定的违法情形且情节严重，可能需要行政拘留的，应当及时将案件及有关材料移送同级公安机关。公安机关认为需要补充材料的，食品安全监督管理等部门应当及时提供。公安机关经审查认为不符合行政拘留条件的，应当及时将案件及有关材料退回移送的食品安全监督管理等部门。

第七十八条 公安机关对发现的食品安全违法行为，经审查没有犯罪事实或者立案侦查后认为不需要追究刑事责任，但依法应当予以行政拘留的，应当及时作出行政拘留的处罚决定；不需要予以行政拘留但依法应当追究其他行政责任的，应当及时将案件及有关材料移送同级食品安全监督管理等部门。

第七十九条 复检机构无正当理由拒绝承担复检任务的，由县级以上人民政府食品安全监督管理部门给予警告，无正当理由 1 年内 2 次拒绝承担复检任务的，由国务院有关部门撤销其复检机构资质并向社会公布。

第八十条 发布未依法取得资质认定的食品检验机构出具的食品检验信息，或者利用上述检验信息对食品、食品生产经营者进行等级评定，欺骗、误导消费者的，由县级以上人民政府食品安全监督管理部门责令改正，有违法所得的，没收违法所得，并处 10 万元以上 50 万元以下罚款；拒不改正的，处 50 万元以上 100 万元以下罚款；构成违反治安管理行为的，由公安机关依法给予治安管理处罚。

第八十一条 食品安全监督管理部门依照食品安全法、本条例对违法单位或者个人处以 30 万元以上罚款的，由设区的市级以上人民政府食品安全监督管理部门决定。罚款具体处罚权限由国务院食品安全监督管理部门规定。

第八十二条 阻碍食品安全监督管理等部门工作人员依法执行职务，构成违反治安管理行为的，由公安机关依法给予治安管理处罚。

第八十三条 县级以上人民政府食品安全监督管理等部门发现单位或者个人违反食品安全法第一百二十条第一款规定，编造、散布虚假食品安全信息，涉嫌构成违反治安管理行为的，应当将相关情况通报同级公安机关。

第八十四条 县级以上人民政府食品安全监督管理部门及其工作人员违法向他人提供网络食品交易第三方平台提供者提供的信息的，依照食品安全法第一百四十五条的规定给予处分。

第八十五条 违反本条例规定，构成犯罪的，依法追究刑事责任。

第十章 附 则

第八十六条 本条例自 2019 年 12 月 1 日起施行。