RESOLUTION
of the Government of the RK
of 29 December 1995 N 1891

"On approval of the order of destruction or further reprocessing products in the case of their recognition as not suitable for sale and consumption"

In accordance with the Resolution of the President of the RK of 22 May 1995 N 2298 "On measures on enforcement of the Decree of the President of the RK having force of the law "On introduction and amendments into the Law of the RK "On standardization and certification" the Government of the RK RESOLVES:

1. To approve attached Order of destruction or further reprocessing products in the case of their recognition as not suitable for sale and consumption.

2. Akims of the oblasts and Almaty city shall approve up to 1 February 1996 composition of the commissions on destruction or further reprocessing of the products not suitable for sale and consumption from the representatives of local executive bodies.

3. Central and local bodies, legal persons shall be lead by this order in organization of works on destruction or further reprocessing of product and goods in the case of their recognition as not suitable for sale and consumption.

In revealing the facts on not implementation by producer (seller) of the directives of executive body on destruction or further reprocessing of product and goods in the case of their recognition as not suitable for sale and consumption and in systematic violations of the rules of certification measures including withdrawal of license for production (sale) shall be taken.

Order of destruction or further reprocessing products in the case of their recognition as not suitable for sale and consumption

I. General Provisions.

1. All products produced, imported and purchased by legal and natural persons in the territory of the RK must correspond to compulsory requirements of normative documents on safety and quality; Interstate standards (GOST), standards of the RK (ST RK), technical conditions of the RK, sanitary norms and rules, veterinary-sanitary norms, construction norms and rules.

2. Imported products from the moment its submission to custom body up to its release according selected custom regime is being on temporary storage under custom control. Temporary storage is carried out in specially provided and prepared premises called storehouses of temporary storage.

Limit period of temporary storage can exceed two months except the cases envisaged custom legislation.

During the period of temporary storage imported products shall be registered (processed) according selected custom regime and shall be released in the order envisaged by custom legislation.

If in the period of custom clearing it is determined that imported products are dangerous then these products shall be arrested and shall not be released through custom border of the RK. Such products shall be taken away outside Kazakstan or they shall be determined for destruction according Provisions on custom regime of destruction.

Prohibition of sale defective products is imposed by the body determined its bad quality at the stage of custom clearance and sale as well.

Provision on withdrawal of the products from wholesale and retail sale network shall be included into prohibition act in compulsory order.

Withdrawal of products and related procedures are carried out by producer (seller).

The fact of removal of products is confirmed by shipping custom declaration registered in established order with mark of custom body about removal of products.

Made out shipping custom declaration on removal of the products is submitted in compulsory order to executive body having revealed these products.

3. In the case when the seller has disappeared or refused from defective products all the issues connected with procedure of removal or destruction of defective products are to be sold by the akims of the local executive bodies of the corresponding administrative-territorial unit.

4. All products imported as well as produced in the territory of the RK not corresponding to the requirements of normative documents concerning safety are divided into two kinds:

- the products that can not be used but which can reach required normative by means of their reprocessing;
- the products subject to destruction as dangerous and absolutely not suitable for consumption (usage).

5. In the case of revealing of dangerous products usage (consumption) of which represents danger for health, life of people and environment the issues connected with destruction and with necessity of agreement of technology of reprocessing of the products subject to reprocessing shall be solved by special commissions.

These commissions are to be established under akims of local executive bodies of corresponding administrative-territorial unit from the representatives of territorial

subdivisions of central executive bodies (Gosstandard, Ministry of Health, Ministry of Agriculture, Ministry of Ecology and Bioresources, Antimonopoly Committee, Ministry of Construction), law protection bodies and certification bodies.

Commission is headed by representative of Gosstandard of the RK. It should consists of no less than 3 members. Commission can attract for work high skilled scientific workers, specialists and independent experts.

6. All expenses connected with operation of commission, storage, transportation, testing, reprocessing and procedures of destruction of products recognized as not suitable for consumption (utilization) shall be beared by producer (seller).

II. An order of reprocessing of products not suitable for usage (application) on destination.

7. Products not suitable for usage (application) on destination shall be reprocessed up to their correspondence to requirements of normative documents.

There are the following types of reprocessing:

- reprocessing of products with purpose to obtain raw material;
- reprocessing of products with purpose to obtain another products;
- working out of products with purpose to fit them to required normative.

8. technology and place of reprocessing of products shall selected by producer (seller) that should apply to competent organizations (institutes, laboratories) on agreement with executive bodies having recognized products as defective ones.

9. Further utilization of reprocessed products on their destination or in their new description and usage is possible only under positive results of the tests in the laboratory accredited by Gosstanadard of the RK in established order and obtaining certificate of correspondence.

III. Order of destruction of products recognized not suitable for utilization (application).

10. In revealing of dangerous products the representative of executive body having revealed defective products shall give directive to producer (seller) on immediate termination of their production (sale).

11. Commission makes an act for destruction on the results of the analysis of the received materials and their re-testing (if necessary). This act shall contain:

- date and place of the act preparation, name of enterprise-producer (seller) to which these products belong;
- name and amount of product subject to destruction;
- indications according which product has been recognized as dangerous;
- names and positions of the members of the commission.

On the base of the act the commission takes measures on isolating and providing measures on preservation of dangerous product and the commission makes decision of its destruction or burying. The commission shall inform producer (seller) about this decision.

Before decision making commission can carry out repeated control tests of defective product in independent accredited laboratory on request of producer (seller).

12. The product is being prepared for destruction on decision of the commission.

13. Food products, pharmaceuticals subject to destruction should be denatured by the substance with sharp smell (kerosene, oil, phenol. chloride of lime) or by dye providing colour unusual for given product.

14. Infected food and agricultural product that are dangerous for population should be disinfected before destruction according to provisions established by Ministry of health and Ministry of Agriculture of the RK.

15. Toxic, narcotic pharmaceuticals and medicine preparations having stupefying and anabolic effects shall be destroyed according to the rules established by the Ministry of Health and Ministry of Internal Affairs of the RK.

16. To avoid accidents and possible stealing of defective production all operations on denaturing and disinfection shall be carried out in the storehouses of temporary storage of products or in special places provided by akims of the local executive bodies of corresponding administrative-terrirtorial unit.

17. Transportation of product subject to destruction shall carried out with escorting by representative of the Ministry of Internal Affairs bodies.

18. Destruction process shall be carried out by producer (seller) in the compulsory presence of the members of the commission.

19. The fact of disinfection and destruction of product is registered by the act according attached form that should be signed by all members of the commission and producer (seller).

20. To avoid pollution of air, soil, underground waters and surface reservoirs during destruction and burying of dangerous product in locations provided for these purposes the commission shall have positive conclusion of the state ecology expertise and decision of environment protection bodies.

IV. Appeal.

21. If producer (seller) does not agree with the decision of executive body or certification body on recognition its product as not suitable for consumption (utilization) without

reprocessing it shall submit appeal in written form to corresponding higher organs of the executive body having rejected the product but no later 5 days after getting decision.

The higher organ shall consider a claim and inform producer (seller) about its decision within 10 days after submission of the claim.
In the case of disagreement of producer (seller) with the decision of the higher organ it has the right to appeal to the court.

22. Decision of the commission on destruction of product recognized as not suitable for consumption (utilization) can be appealed against by the producer (seller) in court order within 10 days after decision making.

Submission of the appeal shall stop implementation of the decision of the commission on destruction of the product recognized as not suitable for consumption if storage of such product is not dangerous from sanitary-epidemiological pint of view and does not affect environment, if there are corresponding conditions of storage and if such product can be held in storage without further damage.

V. Responsibilities of controlling bodies and legal persons.

23. Controlling bodies and legal persons bear responsibilities for observation and implementation of the given Order in accordance with current legislation of the RK.