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Prepared By: FAS Beijing Staff

Approved By: Michael Ward

Report Highlights:

Four years after the implementation of the 2015 Food Safety Law, the State Council of China released revised Implementing Regulations for the Law. The Implementing Regulations entered into force on December 1, 2019. This report contains an unofficial translation of the Regulations.

BEGIN TRANSLATION

Order No. 721 of the State Council

The Implementing Regulations of the *Food Safety Law* of the People's Republic of China were revised and passed by the No.42 Executive Meeting of the State Council on March 26, 2019. The revised Implementing Regulations of the *Food Safety Law* are hereby released and will be implemented on December 1, 2019.

Primer Li Keqiang

October 11, 2019

Implementing Regulations of the *Food Safety Law* of the People's Republic of China

Released by Order 557 of the State Council on July 20, 2009

Revised by the "State Council's Decision to Revise Some Administrative Regulations" on February 6, 2016

Revised and Passed by the No.42 Executive Meeting of the State Council on March 26, 2019

Chapter I General Provisions

Article 1 These Regulations are formulated in accordance with the *Food Safety Law of the People's Republic of China* (hereinafter referred to as the "*Food Safety Law*").

Article 2 Food producers and operators shall, in accordance with laws, regulations and food safety standards, engage in production and operation activities, establish and improve their food safety management systems, adopt effective measures for food safety risk prevention and control, so as to ensure food safety.

Article 3 The Food Safety Commission of the State Council is responsible for analyzing food safety situations; studying, deploying, coordinating, and guiding food safety efforts; proposing major policies

and initiatives for food safety supervision and administration; and urging (relevant government agencies) to fulfill their responsibilities in food safety supervision and administration. Food safety commissions in the people's governments at the county-level and higher carry out work in accordance with jurisdictions specified by the people's governments of the same level.

Article 4 The people's governments at the county-level and higher establish unified and authoritative food safety supervision and management mechanisms and reinforce capacity- building for food safety supervision and management.

Food safety supervision and administrative departments and other relevant departments of the people's governments at the county-level and higher shall perform their duties in accordance with the relevant laws, strengthen (interagency) coordination, and properly perform their food safety supervision and administrative work.

Township people's governments and sub-district offices should support and coordinate with the food safety supervision and administrative departments of the county-level people's governments and their dispatched offices, and perform food safety supervision and administrative work pursuant to laws.

Article 5 China will incorporate food safety knowledge into the national quality education programs, to enhance the whole society's consciousness about food safety by popularizing scientific knowledge and legal knowledge about food safety.

Chapter II Surveillance and Assessment of Food Safety Risks

Article 6 Health departments in the people's governments at the county-level and higher, together with the food safety supervision and administrative departments of the same level, establish interagency consultation mechanisms for food safety risk surveillance, in which they assemble and analyze risk surveillance data, study and determine food safety risks, and prepare food safety risk surveillance analysis reports that are submitted to the people's governments of the same level. Health departments in the people's government at the county-level and higher should submit food safety surveillance analysis reports to the health departments of higher-level people's governments at the same time. Detailed measures about interagency consultation on food safety risk surveillance will be developed by the health administrative department of the State Council together with the food safety supervision and administrative department of the State Council.

Article 7 When a food safety risk surveillance result indicates potential food safety risks, and the food safety supervision and administrative departments confirm it is necessary to inform relevant food producers or operators after conducting further investigations, they should issue (the notice) in a timely manner.

Upon receiving a notice, food producers or operators should immediately conduct self-investigations into the issues. Upon finding food that is not compliant with food safety standards, or if there is evidence proving the food may cause harm to human health, the producer or operator should, pursuant to Article 63 of the *Food Safety Law*, suspend production/operation, recall the foods, and report the situation (to relevant authorities).

Article 8 If the health administrative department and the food safety supervision and administrative department of the State Council find it necessary to conduct safety assessments of pesticides, fertilizers, veterinary drugs, or feeds and feed additives, they should propose a safety assessment to the agricultural administrative department of the State Council. The agricultural administrative department of the State Council shall organize and conduct the safety assessment in a timely manner and report the assessment results to the relevant departments of the State Council.

Article 9 The food safety supervision and administrative department of the State Council, together with other relevant departments, establish food safety risk communication mechanisms; they (are in charge of) clarifying the content, procedure, and requirements for food safety risk assessments.

Chapter III Food Safety Standards

Article 10 The health administrative department of the State Council, together with the food safety supervision and administrative department of the State Council and the agricultural administrative authority of the State Council, formulate the national food safety standard plan and the annual implementing plan thereof. The health administrative department of the State Council is required to publish the national food safety standard plan and the annual implementing plan thereof on its website and solicit public comments.

Article 11 The health departments in the people's governments of all provinces, autonomous regions, and municipalities directly under the Central Government¹ (the provincial health departments) are required to solicit public opinions on local food safety standards they develop pursuant to Article 29 of the *Food Safety Law*. Provincial health departments should submit local food safety standards to the health administrative department of the State Council for record-filing within 30 working days after release of the standards. Finding a local food safety standard that violates laws, regulations or national food safety standards, the health administrative department of the State Council should make timely corrections.

Once a local food safety standard is abolished pursuant to relevant laws, the provincial health department should publish the abolishment on its website in a timely manner.

¹ Editor's note: there are four municipalities directly under the central government: Beijing, Shanghai, Tianjin, and Chongqing.

Article 12 Special foods, including health foods, foods for special medical purposes (FSMP) and infant formula foods, are not foods of a local character. It is not allowed to develop local food safety standards for special foods.

Article 13 After the announcement of a food safety standard, food producers and operators may adopt the standard before the standard's formal implementation date, but (they are required to) make an announcement about their early adoption.

Article 14 Food producers should not develop enterprise standards that are less strict than national food safety standards or local standards. A food producer shall report its enterprise standard to the provincial health departments for record-filing if the standard contains food safety indexes that are stricter than those in the national food safety standards or local standards.

Enterprise standards developed by food producers shall be freely available to the public.

Chapter IV Food Production and Operation

Article 15 Food production and operation licensing is valid for five years.

When a food producer or operator's production/operation condition changes, such that it is no longer compliant with food production/operation requirements, the producer/operator should take immediate rectification measures. If it needs to reapply for licensing, the food producer/operator should apply for the licensing in accordance with the relevant laws and regulations.

Article 16 The health administrative department of the State Council shall publish the catalogues of new food materials, new varieties of food additives, and new varieties of food-related products, as well as the applicable national food safety standards thereof, in a timely manner.

The health administrative department of the State Council, together with the food safety supervision and administrative department of the State Council, update the "Catalogues of Substances Conventionally Considered both as Food and as Chinese Medicine" in a timely manner.

Article 17 The food safety supervision and administrative department of the State Council, together with the agricultural administrative department of the State Council, clarifies the basic requirements for the whole process of food safety traceability, and guides food producers and operators to establish and improve food safety traceability systems by using information technology tools.

The food safety supervision and administrative departments, when conducting supervision and inspection of food safety traceability systems, should give priority to foods for special consumer groups (such as infant formula foods) and foods with either high food safety risks or foods with large sales volumes.

Article 18 Food producers and operators should establish food safety traceability systems, in which they are required to follow the provisions of the *Food Safety Law* regarding record-keeping, such as incoming inspection, pre-delivery inspection and food selling, to ensure traceability of foods.

Article 19 The principal staff of food producers and operators shall be accountable for the food safety work of the enterprise; the person shall establish and implement the enterprise's food safety accountability system, putting emphasize on supplier management, incoming inspection, pre-delivery inspection, process control in production and operation, and self-inspection over food safety. The food safety management personnel of a food producer or operator shall assist the principal of the enterprise to properly carry out food safety management work.

Article 20 Food producers and operators shall reinforce training for and assessment of their food safety management personnel. The food safety management personnel shall have knowledge about food safety laws, regulations, rules, standards and the profession that is compatible for their positions; they shall also have food safety management capability. Food safety supervision and administrative departments shall randomly examine the food safety management personnel of food producers and operators. Guidance for assessment will be developed and published by the food safety supervision and administrative department of the State Council.

Article 21 Where a food or food additive producer or operator commissions others to produce foods or food additives, it should commission the production to a producer that has obtained food or food additive production licensing; the commissioning enterprise should supervise the latter's production activities, and is accountable for the safety of foods or food additives produced on the commission basis. The commissioned party shall produce foods or food additives in accordance with laws, regulations, food safety standards, and the contract; it is accountable for the production activity and is under supervision of the commissioning party.

Article 22 A food producer or operator shall not store in its food production or processing venues the substances listed in the catalogue provided in Article 63 of these Regulations.

Article 23 Using irradiation methods to process foods, (the processor) should comply with relevant national food safety standards, and test and label the irradiated foods pursuant to provisions in relevant national food safety standards.

Article 24 Equipment and facilities for heat preservation, refrigeration, or cooling shall be used for storage or transportation of foods that have special temperature or humidity control requirements, and the equipment and facilities shall be kept in effective operation.

Article 25 Where a food producer or operator commissions others to store or transport foods, it shall examine the commissioned entrepreneur regarding its food safety ensuring capability, and shall supervise the latter to follow food safety requirements in storing and transporting foods. The

commissioned party shall guarantee that the food storage and transportation conditions comply with food safety requirements, and strengthen the processes management in food storage and transportation.

The entity commissioned by food producers or operators to store and transport foods shall accurately record names, addresses, and contact information of the commissioning party and the consignee. The records must be kept for no less than two years after the storage or the transportation is completed.

Non-food producers or operators engaging in food storage businesses that have special requirements for temperature or humidity should, within 30 working days after obtaining business license, report to the food safety supervision and administrative department in the people's government at the county-level and higher for record filing.

Article 26 Where a catering service provider commissions a company for centralized tableware cleaning and disinfection services, it should verify and keep copies of the company's business license and disinfection compliance certificates. The documents should be kept for no less than six months after the service life of the tableware expires.

Article 27 The centralized tableware cleaning and disinfection service provider should establish a mechanism to record pre-delivery inspection, which faithfully records the number of delivered tableware, the date and the batch number of the disinfection, service life, date of delivery, and the name/address/contact information of the commissioning party. The pre-delivery inspection records should be kept for no less than six months after the service life of the disinfected tableware expires. For the disinfected tableware, the entity's name, address, contact information, disinfection date, batch number, and the service life should be labelled on each individual package.

Article 28 Schools, kindergartens, and nurseries; care centers for the aged; and construction sites with centralized dining facilities shall execute a mechanism for material control, tableware cleaning and disinfection, and reservation of food samples. They are required to conduct self-inspections on food safety in the canteens pursuant to Article 47 of the *Food Safety Law*.

Whoever contracts and operates the canteens of such entities must obtain Food Distribution Licensing and shall be accountable for food safety of the canteen. The entities with centralized dining facilities shall urge the contractor to properly implement their food safety management systems, while the entities are responsible for management (for food safety of the centralized dining facility).

Article 29 Food producers and operators shall clearly mark the spoiled, expired or withdrawn foods, and separately store such foods at a clearly marked place; they should undertake harmless treatment or destruction measures to dispose of the foods, and truthfully record the disposal measures.

The "withdrawn foods" used in the *Food Safety Law* refers to foods that have been sold, but recalled or returned (to the producer or operator) for violating laws, regulations, food safety standards, or for

passing the shelf life. Such foods do not include foods that are permitted to be re-sold pursuant to Article 63.3 of the *Food Safety Law*².

Article 30 People's governments at the county-level or higher shall build necessary facilities for harmless treatment or destruction of foods based on needs. Food producers and operators may use the facilities built by governments to take harmless treatment or destruction measures to dispose of foods according to relevant provisions.

Article 31 Before opening a market or holding a trade fair, the owner of a consolidated food trading market or the organizer of a food fair should inform the food safety supervision and administrative department of the county-level people's government of the region.

Article 32 Online, third-party, food trading platform providers shall properly maintain the registration and trading data of the food operators on their platforms. When the food safety supervision and administrative department of the people's government at the county-level and higher deems it necessary to obtain relevant information for the purposes of food safety supervision and inspection, or for investigating a food safety case, or for handling food safety incidents, it may instruct the platform provider to provide such data. Such requests should be approved by the principal staff of the food safety supervision and administrative departments of the people's governments at the county-level and higher. The food safety supervision and administrative department of the people's governments at the county-level and higher, and its staff, shall keep confidential the data provided by the online, third-party food trading platform provider.

Article 33 Production and trading of genetically modified foods should be conspicuously marked; the measures for marking (the production and trading) will be developed by the food safety supervision and administrative department of the State Council together with the agricultural administrative department of the State Council.

Article 34 False publicity in any form, including conferences, lectures, or health consultations, is forbidden. Food safety supervision and administrative departments, upon discovering false publicity activities, will take actions pursuant to relevant laws in a timely manner.

Article 35 Where production of health food involves pre-treatment processes, such as extraction of ingredients and purification, producers must have the corresponding capability for ingredient pre-treatment.

² Article 63.3 of the Food Safety Law provides that: Food producers and distributors shall take unharmed and non-destructive measures regarding recalled food in order to prevent it from re-entering the market. However, food producers may continue to sell food that is recalled because a label, mark, or specification does not comply with food safety standards after taking remedial measures and ensuring food safety. Upon sale, the food producers shall inform consumers of the remedial measures.

Article 36 Producers of food for special medical purposes (FSMP) shall inspect each batch of product that is to be delivered following the testing items required by the applicable national food safety standards.

The special whole-nutrient formula foods under the FSMP category shall be sold to consumers through hospitals or medicine retailers. Hospitals and medicine retailers selling special whole-nutrient formula foods do not need to obtain the Food Distribution Licensing. However, they should comply with the provisions in the *Food Safety Law* and in these Regulations concerning food selling.

Article 37 Advertisements for the specific whole-nutrient formula foods under the FSMP category shall be regulated as those for prescribed medicines. Advertisements of other FSMP shall be regulated as non-prescribed medicines.

Article 38 It is prohibited to make claims about health functions for foods other than health foods.

Infant formula foods adding optional substances that are provided in national food safety standards shall not be named using the optional substance.

Article 39 The content of labels and instructions for special foods shall be consistent with that of the labels and instructions used in the registration or record filing of the product. While selling special foods, an operator should examine whether the content of the labels and instructions are consistent with the labels and instructions used in the registration and record filing; if they are inconsistent, it is not allowed to sell such products. Food safety supervision and administrative departments of the provincial people's governments should publish on their websites the labels and instructions of registered or recorded special foods.

Special foods should not be commingled for sale with regular foods or drugs.

Chapter V Food Test

Article 40 Sampling tests for foods shall be conducted in accordance with the applicable food safety standards, specifications for food registration or record filing, as well as the testing items and methods specified in relevant regulations.

Article 41 For foods that may have been adulterated, if they cannot be tested using the testing items and methods provided in the existing food safety standards, or in Article 111 of the *Food Safety Law*, or in Article 63 of these Regulations, the food safety supervision and administrative department of the State Council may develop supplementary testing items and testing methods. These supplementary testing items and testing methods are used for sampling tests, food safety case investigation and handling, and the handling of food safety incidents.

Article 42 When applying for a re-test according to Article 88 of the *Food Safety Law*, the applicant should pay the re-test cost to the re-test conducting institution before the test. If the re-test conclusion proves the food is not compliant (with the applicable standards), the re-test cost will be paid by the re-test applicant, while if the re-test conclusion proves the food complies with (the applicable standards), the re-test cost will be paid by the food safety supervision and administrative department that conducts the sampling test.

A re-test institution shall not refuse to carry out re-test tasks without a valid reason.

Article 43 Any entity or individual shall not publish food test data issued by an institution that has not obtained legal qualification, nor shall they use the said data for rating of foods or food producers/operators to deceive or mislead consumers.

Chapter VI Food Import and Export

Article 44 When importing foods and food additives, importers shall make declarations to the entry-exit inspection and quarantine authorities for inspection and shall submit, along with the declaration, the product-related information and compliance materials required by laws and administrative regulations.

Article 45 Imported foods shall be stored at the sites designated or approved by the entry-exit inspection and quarantine authorities upon arriving at ports. If the imported foods need to be moved, necessary safety protection measures shall be taken pursuant to requirements by the entry-exit inspection and quarantine authorities. Imported bulk foods shall be inspected at the offloading port.

Article 46 For the purposes of risk management, the national entry and exit inspection and quarantine department may designate ports for importation of certain foods.

Article 47 In accordance with Article 93 of the *Food Safety Law*, the health administrative department of the State Council examines relevant foreign or international standards submitted by overseas exporters or producers, or by their entrusted importers; deeming the standard is consistent with food safety requirements, it will temporarily adopt the standard and make an announcement accordingly. Before the announcement of the temporarily applicable standard, it is not allowed to import foods without national food safety standards.

Foods already covered by general or fundamental national food safety standards do not fall into the scope of “foods without national food safety standards,” as provided in Article 93 of the *Food Safety Law*.

Article 48 Importers shall establish a system for reviewing their overseas food exporters/producers. The system reviews the overseas exporters and producers’ development and implementation of food safety risk control measures, and whether the foods exported to China comply with provisions of the *Food*

Safety Law, these Regulations, other relevant laws, administrative regulations and applicable national food safety standards.

Article 49 When recalling imported food in accordance with Article 94.3 of the *Food Safety Law*, an importer shall report the food recall and the disposal of the recalled foods to the food safety supervision and administrative department of the people's government at the county-level and higher where it is located, and shall report the recall and disposal to the entry and exit inspection and quarantine agency of the region.

Article 50 Upon noting that a registered overseas food producer no longer complies with the registration requirements, the national entry and exit inspection and quarantine department shall order it to take rectification measures within a given time. While the producer is taking the rectification measures, imports of foods produced by the company shall be suspended. Where the producer still fails to comply with the registration requirements after taking the rectification measures, the national entry and exit inspection and quarantine department shall revoke the overseas food producer's registration, and make an announcement about the revocation.

Article 51 For overseas food producers that have passed the good manufacturing practices (GMP) and the hazard analysis and critical control point (HACCP) assessments in China, the Chinese certification authority shall conduct follow-up inspections in accordance with relevant laws. The certification authority shall revoke the certifications of producers that no longer meet the certification requirements, and make public announcements about the revocations.

Article 52 In the event that a food safety incident occurring abroad may have an impact in China, or when noting serious food safety problems in imported foods/food additives/food-related products, the national entry and exit inspection and quarantine department shall promptly issue a risk alert, and may take the following control measures towards relevant foods, food additives or food related products:

- (i) Reject or destroy the product;
- (ii) Restrict imports with conditions;
- (iii) Suspend or ban imports.

Article 53 Producers of foods and food additives for export shall ensure that their products for export comply with the standards of the importing country (region) and the contract requirements; in cases where an international treaty or protocol that China concluded or participates in sets requirements, foods and food additive exports shall also meet the requirements set in the international treaty or protocol.

Chapter VII Handling of Food Safety Incidents

Article 54 Food safety incidents, pursuant to the National Food Safety Incident Response Plan, shall be administered at several levels. The food safety supervision and administrative department of the people's government at the county-level and higher, together with relevant departments of the same level, are responsible for the investigation and handling of food safety incidents.

The people's governments at the county-level or higher shall modify and improve food safety incident response plans based on actual situations in a timely manner.

Article 55 The people's governments at the county-level and higher shall improve food safety incident response mechanisms, improve the availability of the equipment and tools needed in incident responses, secure and properly prepare the inventory of emergency response materials, build emergency response teams, as well as strengthen their trainings and drills for emergency response.

Article 56 An entity that has a food safety incident shall immediately take control measures, such as sealing up the foods and raw materials, tools, equipment, and facility that caused or may cause food safety incidents.

Article 57 Upon receiving a report of a food safety incident, the food safety supervision and administrative department of the people's governments at the county-level and higher shall immediately work with the health administrative department and the agricultural administrative department of the same level to investigate and handle the issue pursuant to Article 105 of the *Food Safety Law*. The food safety supervision and administrative department should provide protection over the foods and raw materials, tools, equipment, and facility that have been sealed up by the entity that had the incident. It should seal up (the foods and raw materials, tools, equipment, and facility) that should have been sealed up but have not been, or instruct the entity to do so. Meanwhile, it should inform the disease prevention institution to conduct an epidemiological investigation into factors related to the incident.

After completing the investigation, the disease prevention institution shall submit the epidemiological investigation reports in a timely manner to the food safety supervision and administrative department and the health administrative department at the same time.

Any entity or individual shall not reject or hinder the epidemiological investigation conducted by the disease prevention institution. Relevant (government) departments should provide assistance to the disease prevention institutions in the epidemiological investigation work.

Article 58 The food safety supervision and administrative department of the State Council, together with the health administrative department and the agricultural administrative department of the State Council, shall analyze food safety incidents situations nationwide on a regular basis. They shall improve food safety supervision and management measures to prevent and reduce occurrence of incidents.

Chapter VIII Supervision and Management

Article 59 The food safety supervision and administrative departments of people's governments of cities that are divided into districts, based on the needs of supervision and inspection work, may conduct random inspections of food producers and operators that are under the routine oversight of subordinate food safety supervision and administrative departments. They can also organize subordinate food safety supervision and administrative departments to conduct inspections of food producers and operators in areas other than their jurisdiction.

The food safety supervision and administrative department of people's governments of cities divided into districts, deeming it necessary, may directly investigate and handle food safety violation cases that are under the jurisdiction of subordinate food safety supervision and administrative departments, or designate another subordinate food safety supervision and administrative department to conduct an investigation and handle the issue.

Article 60 China establishes a food safety inspector system. Based on existing resources, (China will) strengthen investigator team building and reinforce assessment and training to improve inspector competence.

Article 61 The shuttering [of food producers and operators] and confiscation [of goods] by food safety supervision and administrative departments of the people's governments at the county-level and higher pursuant to Article 110 of the *Food Safety Law* should not exceed 30 days; in complicated situations, and with the approval of the responsible person of the food safety authority that imposes the shuttering and confiscation measures, the period may be extended to no longer than 45 days.

Article 62 Where an online, third-party food trading platform has multiple cases of illegal operations, or an illegal operation causes serious consequences, the food safety supervision and administrative department in the people's government at the county-level and higher may invite the legal representative or principal staff of the online, third-party food trading platform provider to a meeting about their accountability.

Article 63 Based on information about foodborne illnesses and information obtained through food safety risk surveillance and in their supervision/management, the food safety supervision and administrative department of the State Council, together with the health administrative department of the State Council, develops and publishes the catalogue of non-food use chemical substances or other substances that may harm human health.

Article 64 The health departments in the people's governments at the county-level and higher shall conduct inspections of companies providing centralized tableware cleaning and disinfection services; finding incompliances with laws, regulations, food safety standards or relevant health requirements, (the health department) shall conduct investigations and take actions in a timely manner. Results of the inspections shall be released to the public.

Article 65 China implements a mechanism that rewards reporting of food-safety-related law violations; for reports that are verified to be true, the reporting personnel will be rewarded. In the case of a person reporting significant food safety-related criminal acts of the enterprise he/she works for, the reward should be increased. Relevant authorities should keep confidential the reporting person's information and protect the reporting person's legitimate interests. The measures for rewarding food safety-related violation reports will be developed by the food safety supervision and administrative department of the State Council together with the finance department of the State Council.

People's governments of all levels will include in their budget the fund for rewarding food safety-related violation reporting.

Article 66 The food safety supervision and administrative department of the State Council should, together with relevant State Council members, establish a system of joint incentive for good [social credit] and joint punishment for bad [social credit]; utilizing the food producer and operator's [social credit] files, the food safety supervision and administrative department of the State Council shall establish a "black list" mechanism for producers and operators with severe violations. The social credit status of (food producers and operators) will be linked/connected to their (market) access, financing, credit loans, and (entity/personal) credit records; such social credit status will be published in a timely manner.

Chapter IX Legal Liabilities

Article 67 Any of the following circumstances will be considered a "serious circumstance" as provided in Article 123 to Article 126 and Article 132 of the *Food Safety Law*, as well as in Article 72 and 73 of these Regulations:

- 1) Value of the products involved in the violation exceeds 20,000 Yuan, or the violation lasted for more than three months;
- 2) (The violation) caused foodborne illness and occurrence of fatality cases, or caused foodborne illness to more than 30 people, but did not cause fatality;
- 3) Intentionally provide false information or hide the truth;
- 4) Refuse or evade inspections;
- 5) Within one year of receiving an administrative punishment for violating food safety-related laws/regulations, (the person/entity) committed violations of the same nature; or the person/entity had received criminal punishment for violating food safety laws/regulations, and committed food safety violation acts again;

6) Other circumstances with severe violations.

When imposing punitive fines for violations with serious circumstances, the punitive fines should be determined with severity pursuant to relevant laws.

Article 68 The following circumstances are subject to punishments provided in Article 125.1 of the *Food Safety Law* and Article 75 of these Regulations:

- 1) Store substances listed in the catalogue developed in accordance with Article 63 of these Regulations in the food production or processing venues;
- 2) Label or instructions of non-health food products contain claims for health functions;
- 3) Name infant formula foods after substances that could be optionally added, as provided by relevant national food safety standards;
- 4) Content of the labels and instructions of special foods is inconsistent with that in the labels and instructions registered and filed on the record.

Article 69 The following circumstances are subject to punishments pursuant to Article 126.1 of the *Food Safety Law* and Article 75 of these Regulations:

- 1) An entity that is commissioned to store and transport foods by a food producer or a food operator fails to record and keep information following relevant provisions;
- 2) A catering service provider fails to check and document the centralized tableware provider's business license (copy) and the disinfection compliance certificate;
- 3) A food producer or operator fails to mark or (properly) store spoiled, expired or withdrawn foods, or fails to take harmless treatment or destruction measures to properly dispose of the aforementioned foods and fails to truthfully record such disposals;
- 4) An entity or an individual other than hospitals and medicine retailers sells special whole-nutrient formula foods listed under the category of FSMP to consumers;
- 5) Store or sell special foods together with regular foods or drugs.

Article 70 In addition to the circumstances specified in Article 125.1 and Article 126 of the *Food Safety Law*, where the food producer or operator's production or operation does not comply with provisions of Item 5, and 7 to 10 of the Article 33.1 of the *Food Safety Law*, or the act does not comply with provisions in the national food safety standards related to sanitary requirements in the food production process, a penalty will be imposed according to Article 126.1 of the *Food Safety Law* and Article 75 of these Regulations.

Article 71 Where a centralized tableware provider fails to establish and implement pre-delivery inspections, the health administrative departments in the people's governments at the county-level and higher will impose penalties pursuant to Article 126.1 of the *Food Safety Law* and Article 75 of these Regulations.

Article 72 Where a non-food producer or operator engaging in food storage businesses that have special requirements for temperature or humidity, or the owner of a consolidated food trading market, or the organizer of a food fair, fails to file records or report (the activity), the food safety supervision and administrative departments in the people's governments at the county-level and higher will instruct it to make rectifications and issue a warning; upon refusing to make rectifications, the entity is subject to a punitive fine between 10,000 Yuan and 50,000 Yuan; with serious circumstances, the authority will instruct the entity to suspend production or operation, and impose a punitive fine between 50,000 Yuan and 200,000 Yuan.

Article 73 For false publicity of foods by means of conference, lecture, or health consultation, the food safety supervision and administrative departments of the people's governments at the county-level and higher will instruct the (organizer) to eliminate the impact; where there are illegal gains from such activities, the illegal gains will be confiscated; with serious circumstances, penalty will be imposed pursuant to Article 140.5 of the *Food Safety Law*; if it is law violation by an entity, the legal representative, the principal staff, the manager directly responsible and other persons directly responsible for the violation will be punished pursuant to Article 75 of these Regulations.

Article 74 Where a food product complies with applicable food safety standards but does not comply with the food safety indexes in the enterprise standard, which is labeled (on product package), the food safety supervision and administrative departments in the people's governments at the county-level and higher will issue a warning to the entity; it will also instruct food operators to stop selling the product and instruct the producer to make rectifications. If (the producer or the operator) refuses to suspend selling the product or make rectifications, the authority will confiscate the foods that do not comply with the food safety indexes in the enterprise standard; if the product value is less than 10,000 Yuan, a punitive fine between 10,000 to 50,000 Yuan will be imposed (in addition to the above penalties); if the product value is higher than 10,000 Yuan, a punitive fine of five time the product value to ten times the product value will be imposed (in addition to the above penalties).

Article 75 Where a food producer or a food operator has any of the following circumstances, and in addition to the penalties provided by the *Food Safety Law*, the legal representative, the principal staff, the managers directly responsible and other persons directly responsible for the violation will be imposed a punitive fine of one time to ten times his/her annual income made from the entity in the previous year:

- 1) Deliberately committed the violation;
- 2) The violation is very bad in nature;

3) The violation causes serious consequences.

The circumstances in the scope of Article 125.2 of the *Food Safety Law* are not subject to the above provisions.

Article 76 A food producer or food operator, pursuant to Article 63.1 and Article 63.2 of the *Food Safety Law*, that suspends production or operation, recalls foods, or takes other effective measures to mitigate or eliminate food safety risks and did not cause harmful consequences, are subject to lighter or reduced penalties.

Article 77 The food safety supervision and administrative departments of the people's governments at the county-level and higher should transfer the case and relevant materials to the public security bureau of the same level for violations provided in Article 123 of the *Food Safety Law* that has serious circumstances and there is possibility of administrative detention. Should the public security bureau need supplemental materials, the food safety supervision and administrative department should provide such materials in a timely manner. Should the public security bureau, after investigation, find the case does not comply with conditions for administrative detention, it should return the case and relevant materials in a timely manner to the food safety supervision and administrative department that transferred the case and materials to it.

Article 78 For food safety law violations without criminal elements, or for food safety law violations for which the bureau determines not to impose criminal responsibility but administrative detention (to the violating person/entity), the public security bureau should made the determination of administrative detention in a timely manner; (for cases that are) not necessary to impose administrative detention but should be held accountable for other administrative liabilities pursuant to relevant laws, the public security bureau should transfer the case and relevant materials in a timely manner to the food safety supervision and administrative department of the same level.

Article 79 Finding a re-test institution that refuses re-test tasks without valid reasons, the food safety supervision and administrative departments of the people's governments at the county-level and higher will issue a warning to it; if the re-test institution refuses to take re-test tasks twice in one year, relevant departments of the State Council will revoke its qualification for re-test, and issue public notices about the evocation.

Article 80 Finding a person/an entity publishing food test data issued by a food inspection institution without legal qualification, or using the above test data for rating of foods or food producers/operators to deceive or mislead consumers, the food safety supervision and administrative department of the people's governments at the county-level and higher will instruct the person/entity to take rectification measures; (the food safety supervision and administrative departments of the people's governments at the county-level and higher) will confiscate the person's/entity's illegal gains if there are any, and impose a punitive fine between 100,000 Yuan to 500,000 Yuan; where the person/entity refuses to make rectifications, (the food safety supervision and administrative department of the people's governments at the county-level

and higher) will impose a fine between 500,000 Yuan to 1 million Yuan; if the person/entity's act constitutes a violation of public security regulations, the public security bureau will impose a public security administrative punishment on the person/entity.

Article 81 Where a food safety supervision and administrative department imposes a punitive fine of more than 300,000 Yuan to an entity or individual pursuant to the *Food Safety Law* or these Regulations, the decision should be made by the food safety supervision and administrative departments of people's governments of cities that are divided into districts. The specific jurisdiction scope of punishment will be determined by the food safety supervision and administrative department of the State Council.

Article 82 The public security bureau will impose a public security administrative punishment on the entity/individual that impedes law enforcement by the food safety supervision and administrative department if the impediment constitutes a violation of public security administrative regulations.

Article 83 Finding an entity or an individual violating Article 120.1 of the *Food Safety Law*, making up and spreading false food safety information which is suspected of constituting a violation of public security administrative regulations, the food safety supervision and administrative departments of the people's governments at the county-level and higher should report the issue to the public security bureau of the same level.

Article 84 The food safety supervision and administrative departments of the people's governments at the county-level and higher and its staff, providing information submitted by an online, third-party food trading platform provider to other people, are subject to disciplinary punishment provided in Article 145 of the *Food Safety Law*.

Article 85 Any violation of these Regulations that constitutes a crime shall be investigated for criminal responsibility in accordance with the law.

Chapter X Supplementary Provisions

Article 86 These Regulations come into effect on December 1, 2019.

END TRANSLATION

Attachments:

No Attachments.