

REGULATIONS

PRC REGULATORY OVERVIEW

The laws regulating the production, distribution and sale of artificial sausage casings, raw meats and highly-processed meat products in the PRC include, but not limited to, the Food Safety Law, the Environmental Protection Law of the PRC (《中華人民共和國環境保護法》) (the “Environmental Protection Law”) and other PRC laws and regulations relating to the standardization of production and hygiene of food products. Certain important provisions in the above laws and regulations relating to the sausage casing industry and the meat product industry are set out below.

The Food Safety Law of the PRC (《中華人民共和國食品安全法》)

The Food Safety Law was passed at the 7th meeting of the Standing Committee of the Eleventh National People’s Congress which was closed on 28 February 2009. The Food Safety Law was implemented on 1 June 2009 and the Food Hygiene Law promulgated on 30 October 1995 was repealed at the same time.

The Food Safety Law established a mechanism to assess food safety risks. Food production using chemicals (other than food additives) and other substances that may be hazardous to human health is prohibited. Together with the Food Safety Law, the State establishes laws and regulations on international food standards and the public health administration authority of the State Council is responsible for setting and publicizing the national food safety standards. The department for food safety supervision and administration is not permitted to exempt any food from its inspection. When a food producer discovers that its products do not meet the food safety standards, it is required to immediately cease production and recall those products from the market.

Anyone who violates the provisions of the Food Safety Law is liable for civil compensation, penalties and/or fines.

The Regulations on the Implementation of the Food Safety Law of the PRC (《中華人民共和國食品安全法實施條例》)

In order to facilitate the implementation of the Food Safety Law, the Regulations on the Implementation of the Food Safety Law of the PRC were promulgated and came into force on 8 July 2009. Such regulations further specify that food production enterprises are primarily responsible for food safety, increase the requirements for precautionary measures and the control of production and operation, detail relevant duties of responsible parties as stated in the Food Safety Law, strengthen the responsibilities for local governmental and supervisory authorities, and provide substantial requirements for launching food safety assessment, quality examination and recall procedures.

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The Standardization Law of the PRC (《中華人民共和國標準化法》)

The Standardization Law of the PRC, which came into effect on 1 April 1989, is the legal framework for the development of national standards and application for all industries in the State. Artificial sausage casings, raw meats and highly-processed meat products must conform to different standards, which primarily include:

- GB 14967-94 hygiene standard for collagen sausage casings
- GB 2707-2005 hygiene standard for fresh (frozen) poultry meat
- GB 2726-2005 hygiene standard for cooked meat products
- GB 19303-2003 production hygiene standard for cooked meat product enterprises
- GB 13457-1992 water pollutant discharge standard for meat processing industry

Where the products manufactured or sold by food production or trading enterprises do not conform to the standards, such enterprises may be ordered by the relevant government departments to suspend production or sales of their products with their products being confiscated, destroyed under supervision or undergoing necessary technical treatments, or may have the relevant products and illegal gains confiscated and be fined. If the violation causes serious consequences and constitutes an offence, the violating enterprises and the persons directly responsible for the violation may be subject to criminal liabilities as imposed by the judicial authorities.

The Measures on the Administration of Food Hygiene License (《食品衛生許可證管理辦法》)

The Measures on the Administration of Food Hygiene License (the “Measures on the Administration of License”) implemented on 1 June 2006 aim at regulating the application and issuance of food hygiene licenses, ensuring the effective implementation of food hygiene supervision and administration by the hygiene administration authorities, maintaining normal food production and operation and protecting the health of consumers. The hygiene administration authority of the local government issues the food hygiene licenses to food production operators in accordance with the Measures on the Administration of License. Anyone who violates the Measures on the Administration of License will be subject to various penalties as stipulated under such measures.

The Measures on Administrative Punishment for Food Hygiene (《食品衛生行政處罰辦法》)

The Measures on Administrative Punishment for Food Hygiene (the “Measures on Administrative Punishment”) implemented on 15 March 1997 aim at standardizing the administrative punishments in respect of food hygiene, ensuring and supervising the effective implementation of administrative management by the hygiene administration authorities, and protecting the legal rights of food production operators.

If the Measures on Administrative Punishment are not observed, subject to the level of the violation, punishments may include single or combined penalties, confiscation of illegal gains, revocation of hygiene license, closing down of illegal operation activities and suspension of production and operation.

The Provisional Detailed Rules for Administration and Supervision of the Quality and Safety in Food Production and Processing Enterprises (《食品生產加工企業質量安全監督管理實施細則(試行)》)

The Provisional Detailed Rules for Administration and Supervision of the Quality and Safety in Food Production and Processing Enterprises (the “Rules for Administration and Supervision”) promulgated by the State Administration of Quality Supervision, Inspection and Quarantine came into force on 1 September 2005 and regulate the administration and supervision of the quality and safety in industrially processed and manufactured food for human consumption.

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Pursuant to the Rules for Administration and Supervision, food production and processing enterprises are required to conform to the following principal requirements:

- obtain a food production license in accordance with the required procedures, and the processed food produced must pass the inspection and be imprinted (labeled) with the mark for Market Approval for Food Quality and Safety (the “QS mark”) prior to sales;
- use raw materials and additives in the production of processed food products which comply with the relevant regulations of the State, and the use of non-edible raw and auxiliary materials in food processing is prohibited;
- use clean and non-contaminating materials for food packaging, for those food items that have no individual packaging, if the wholesale package of such food items can bear labels, then such wholesale package shall have proper labeling;
- use safe, clean and non-contaminating containers, packaging, tools and equipment for storing, delivering, loading and unloading food products;
- if there is domestic consumption, an enterprise producing and processing export food shall apply for a food production license; and
- in the event of any quality problem arising in relation to food products with the QS mark during the quality assurance period not caused by improper use or storage by the consumer, the producers or the sellers shall bear the legal liabilities in accordance with their obligations under the law.

When any enterprise violates the Rules for Administration and Supervision, the supervisory authorities for quality and technology, depending on the circumstances, may impose certain administrative punishments including suspension of production and sales, rectification within prescribed time, confiscation of illegal gains, fine and/or revocation of the production license.

The Law of Product Quality of the PRC (《中華人民共和國產品質量法》)

The Law of Product Quality of the PRC (the “Product Quality Law”) came into effect on 1 September 1993 and was amended on 8 July 2000. The Product Quality Law provides that producers are required to establish a comprehensive internal management system for product quality and strictly regulate the duties of different positions in the production line and fulfill their respective responsibilities on product quality and the assessment process. Producers must assume the responsibilities for product quality and their products shall pass the quality checks.

Those violating the Product Quality Law are subject to various penalties, including being ordered to take corrective actions within a prescribed time, suspension of business, confiscation of illegal gains and fines depending on the situation. If the violation is serious, the business license may be revoked. For serious violations which constitute an offence, the enterprises and the persons directly responsible may be subject to criminal liabilities.

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The Regulations on Administration of Hygiene Registration of Export Food Manufacturing Enterprises
(《出口食品生產企業衛生註冊登記管理規定》)

The Regulations on Administration of Hygiene Registration of Export Food Manufacturing Enterprises (the “Export Food Hygiene Registration Regulations”) were promulgated on 19 April 2002 and came into effect on 20 May 2002. The Export Food Hygiene Registration Regulations require all enterprises engaging in the manufacturing, processing or storage of export food in the PRC to obtain hygiene registration certificates before the commencement of manufacturing, processing or storage of export food. Applications for inspection will not be accepted by the import and export quarantine authorities on the export food manufactured by enterprises without hygiene registration.

Registration procedures for the export food manufacturing enterprises in the State are administered by the Certification and Accreditation Administration of the People’s Republic of China (“CAAC”). Hygiene registration certificates are issued by the CAAC and valid for a period of three years.

Pursuant to the Export Food Hygiene Registration Regulations, enterprises violating the regulations shall bear the relevant legal responsibilities.

The Environmental Protection Law of the PRC (《中華人民共和國環境保護法》)

The Environmental Protection Law was promulgated in 1989. The purposes of the Environmental Protection Law are to protect and enhance living environment, prevent and control pollution and other public hazards, and safeguard human health. The State Administration for Environmental Protection is responsible for the implementation of uniform supervision and administration of environmental protection work in the State and formulation of the national waste discharge standards. Local environmental protection bureaus at county level or above are responsible for the environmental protection in their respective jurisdictions.

Enterprises discharging pollutants need to apply for registration as required by the environmental protection administration authority under the State Council. Enterprises discharging pollutants exceeding the state or local discharge standards may be levied fees for excessive discharge and be responsible for eliminating such pollution.

Various penalties may be imposed against persons or enterprises in violation of the Environmental Protection Law, including warnings, fines, orders for rectification within a specific time, orders for cessation of production, orders for re-installation of pollution prevention and control facilities which have been removed without approval or left unused, imposition of administrative sanctions against the responsible persons, or orders for closing down. Any of the above penalties may be imposed by governmental authorities with additional fines. Entities committing serious violations of the Environmental Protection Law may be liable to compensate the victims, and persons directly responsible may be subject to criminal liabilities.