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Prepared By: FAS China Staff

Approved By: Adam Branson

Report Highlights:

On October 23, 2021, the National People’s Congress of China (NPC) published the Agricultural Product Quality and Safety Law of the People’s Republic of China (Revised Draft) for domestic comment. Once finalized, the revised law will replace the currently effective law of the same title, which was promulgated in 2006. Though focused on domestic agricultural production, the revised draft extends the scope of the 2006 law, including in areas of traceability and geographic indication, which may have implications for trade. China has not notified the revisions to the WTO.

Summary:

Originally promulgated in 2006 (see GAIN Report [CH6095](#)), draft revisions to the Agricultural Product Quality and Safety Law were initially released for domestic comment by the Ministry of Agriculture and Rural Affairs (MARA) in June 2019. On October 23, 2021, the National People’s Congress of China (NPC)¹ released the most recent version of the revised draft law and solicited domestic comments. The revised draft law has 81 articles in eight chapters, covering a broad range of topics related to agricultural products including risk management and standard development, production, packaging and labeling, oversight, and legal liabilities. Though focused on domestic agricultural products and production, several aspects of the law hold the potential to impact trade, including sections on geographic indication (Article 34) and traceability (Article 40). During the comment period, which ended November 21, 2021, the NPC received 2,615 comments submitted by 1,041 entities and individuals². The Revised Draft is expected to undergo additional review by the NPC before it is formally promulgated.

Many of the revisions are intended to better align with China’s Food Safety Law, which was originally promulgated in 2009 and amended in 2015. Article 2 of the Food Safety Law provides that:

“The quality and safety management on primary edible products derived from agriculture (hereinafter referred to as “Edible Agricultural Products”) shall be subject to the provisions set forth in the Agricultural Product Quality and Safety Law; provided however that this Law (the Food Safety Law) has provisions on the market sales, formulation of related quality and safety standards, and release of related safety information of edible agricultural products, as well as agricultural inputs, this Law (the Food Safety Law) shall be followed.”

The Agricultural Product Quality and Safety Law is also revised to ensure whole-process oversight of agricultural products, including the production environment, inputs (pesticides and fertilizers), and inspections and testing.

Major changes of the revised draft law in comparison with the current 2006 law include:

1. The revised law expands the scope of “agricultural products” to “primary products originated from planting, forestry, animal husbandry and fishery, etc., i.e., the plants, animals, microbes and their products obtained from agricultural activities” (Article 2); whereas the 2006 Law provides that agricultural products refer to “primary products originating from agriculture, i.e., plants, animals, microbes and their products obtained from agricultural activities” (Article 2).

¹ The NPC is the highest organ of State power in China; it is the law maker in China.

² Data obtained from the NPC webpage of laws that have closed commenting period - <http://www.npc.gov.cn/flcaw/more.html>.

2. The revised law clarifies areas of responsibility and coordination with the 2015 Food Safety Law, and elaborates the responsibilities of MARA, the State Administration for Market Regulations (SAMR), provincial and local municipal governments.
3. The revised law reflects the guiding principle that producers and operators of agricultural products are to be held accountable for quality and safety of their products (Article 7 and Article 27).
4. Articles 13 and 44 expand provisions on agricultural product quality and safety risk surveillance mechanisms.
5. Article 16 expands the scope and coverage of agricultural product quality and safety standards, which were not provided in the 2006 Law.
6. Article 20 provides that China establishes a monitoring system for the places of origin of agricultural products.
7. Article 24 urges the producers, operators, and users of agricultural inputs (pesticides, fertilizers, agriculture-use film) to properly collect and dispose of packages and waste of such inputs.
8. Article 34 provides that China reinforces protection and management of geographic identification of agricultural products.
9. (Article 39) The Draft Law introduces the concept of “Self-Commitment Certificate of Edible Agricultural Products for Safety (the Self-Commitment Certificate of Edible Agricultural Products)”, which is the self-commitment by farmers and the professional farmer cooperatives for the safety of agricultural products. MARA will develop rules for the administration of the Self-Commitment Certificate of Edible Agricultural Products.
10. Article 40 provides that China will launch traceability catalog for edible agricultural products. The establishment of the catalog will be the joint responsibility of MARA and SAMR. Producers and operators of agricultural products are encouraged to adopt modern information technology tools to collect and maintain production records, purchase and sales records for the purpose of traceability.
11. Article 51 provides that relevant authorities are entitled to adopt certain measures or actions in their inspections for agricultural product safety and quality.
12. Article 57 provides that MARA and relevant State Council departments are required to develop contingency plans for agricultural product quality and safety emergencies; local governments are required to formulate and implement the plans accordingly.
13. Article 58 and 59 urge regulators and law enforcement authorities to enhance coordination in their work.
14. The revised draft law removes Article 42 of the 2006 Law about imported agricultural products (inspection of imported agricultural products must follow relevant qualification and safety standards for agricultural products in China; while there are no such standards, relevant authorities could designate the use of foreign standards for inspection before a domestic standard is developed).
15. Quality and safety management of the purchase, storage, and transportation of grains shall follow laws and regulations for grains (Article 80).

BEGIN TRANSLATION

Agricultural Product Quality and Safety Law of the People's Republic of China (Revised Draft)

Chapter I General Provisions

Article 1 The Law is formulated for ensuring the quality and safety of agricultural products, safeguarding the health of the general public, and promoting the development of agriculture and rural economy.

Article 2 The term agricultural products as mentioned in this Law refers to primary products originated from planting, forestry, animal husbandry and fishery, etc., i.e., the plants, animals, microbes and their products obtained from agricultural activities.

The term agricultural product quality and safety as mentioned in this Law means that the quality of an agricultural product meets the requirements for human health and safety.

Article 3 The production and operation activities of agricultural products as well as the oversight of the agricultural product quality and safety shall comply with the Law.

Provisions in the *Food Safety Law of the People's Republic of China* (Food Safety Law) on the market sales of edible agricultural products, the formulation of relevant quality and safety standards, the announcement of relevant safety information, and the agricultural inputs should be followed.

Article 4 Agricultural product quality and safety work follows the principles of: prevention first, risk management, governance from the source, and full-process control for the purpose of establishing a science-based and strict oversight system and building a coordinated and efficient social co-governance system.

Article 5 The agriculture and rural affairs department³ and the market supervision department⁴ of the State Council oversees agricultural product quality and safety in accordance with the Law and their jurisdictions.

Other relevant departments of the State Council undertake the work related to agricultural product quality and safety in accordance with the Law and their jurisdictions.

³ Currently it is the Ministry of Agriculture and Rural Affairs (MARA).

⁴ Currently it is the State Administration for Market Regulations (SAMR).

Article 6 The municipal governments at the county level or above are responsible for the work on agricultural product quality and safety in their administrative regions, providing unified lead, deployment and coordination for the work, take measures to establish and improve an agricultural product quality and safety working mechanism, and improve the level of agricultural product quality and safety.

The municipal governments at the county level or above should determine the oversight jurisdiction of the agriculture and rural affairs department, the market supervision department, and other relevant departments within the municipal government with regard to agricultural product quality and safety; relevant departments are responsible for the oversight of agricultural product quality and safety within their jurisdictions.

The municipal governments at the town and township level should fulfill the oversight responsibilities and assist the higher-level municipal government and relevant departments in oversight of agricultural product quality and safety.

Article 7 Producers and operators of agricultural products are held accountable for quality and safety of the agricultural products they produce and operate.

Producers and operators of agricultural products should follow laws, regulations and agricultural product quality and safety standards in their production and operation; they should be honest and self-disciplined and are subject to public supervision and assume social responsibilities.

Article 8 The municipal government at the county level or above should include the agricultural product quality and safety work into their economic and social development planning and include the funds for the purpose into its budget to strengthen the capacity building of agricultural product quality and safety oversight.

Article 9 China guides and promotes standardized production of agricultural products, encourages and supports the production of “green” and high-quality agricultural products; it is prohibited to produce and sell agricultural products that do not conform to the national agricultural product quality and safety standards.

Article 10 China supports the science and technology research on agricultural product quality and safety; China promotes science-based quality and safety administration methods and extends advanced and safe production technologies.

Article 11 Municipal governments at all levels and relevant departments should strengthen the propaganda of agricultural product quality and safety knowledge, let the community-level organizations utilize their advantages in self-governance, guide producers and operators of agricultural producers to strengthen their quality and safety management to guarantee the safety of agricultural product consumption.

Article 12 Professional farmer cooperatives or agricultural products industry associations should timely provide production technology services to its members, establish agricultural product quality and safety management systems, improve the agricultural product quality and safety control system, and strengthen self-discipline.

Chapter II Agricultural Product Quality and Safety Risk Management and Standards Development

Article 13 China establishes the agricultural product quality and safety risk surveillance system.

MARA formulates national plan for agricultural product quality and safety risk surveillance in accordance with the national risk surveillance plan, MARA conducts risk surveillance in key regions and on key agricultural product varieties. Based on the actual production and operation of agricultural products in the region, provincial agriculture and rural affairs departments develops implementation plans for risk surveillance, which are be submitted to MARA for record filing. The county and above level agriculture and rural affairs departments implements the agricultural product quality and safety risk surveillance in the region.

Noticing agricultural product quality and safety risks, county and above level market supervision department and other relevant departments should immediately verify the risk and inform the agriculture and rural affairs department of the same level. The agriculture and rural affairs department should timely adjust the risk surveillance plan or the implementation plan for agricultural product quality and safety surveillance through research and analysis with relevant departments.

Article 14 China establishes an agricultural product quality and safety risk assessment system.

MARA establishes an expert committee for agricultural product quality and safety risk assessment to conduct risk analysis and assessment of potential hazards which might affect agricultural product quality and safety. Where the health department⁵, the SAMR and other departments of the State Council find it is necessary to conduct the quality and safety risk assessment, they should propose risk assessment to MARA.

The expert committee for agricultural product quality and safety risk assessment is composed of experts in relevant areas including agriculture, food, nutrition, biology, environment, medicine, etc.

Article 15 MARA should take commensurate administrative measures according to the results of agricultural product quality and safety risk surveillance and risk assessment, and timely notify the results to SAMR and other relevant departments of the State Council.

⁵ Currently it is the National Health Commission

Article 16 China establishes and improves the agricultural product quality and safety standard system. The agricultural product quality and safety standards are compulsory technical norms, which include the following contents:

- 1) Provisions on agricultural input quality, scope of use, usage, dosage, safety interval and withdrawal period, which are related to agricultural product quality and safety.
- 2) Requirements for production environment and production process related to quality and safety of agricultural products.
- 3) Requirements for key ingredients indicators of agricultural products, which are related to agricultural product quality and safety.
- 4) Standard inspection procedures for slaughtered livestock and poultry.
- 5) Other standards related to agricultural product quality and safety.

The quality and safety standards related to edible agricultural products are implemented in accordance with the provisions of the *Food Safety Law*.

Article 17 The agricultural product quality and safety standards are developed and announced in accordance with relevant laws and administrative regulations.

While developing the agricultural product quality and safety standards, the standard developer should consider the results of agricultural product quality and safety risk assessment and listen to the opinions of producers and operators engaging in production of agricultural products, consumers, and other stakeholders, so as to guarantee the consumption safety.

Article 18 The agricultural product quality and safety standards should be revised timely based on science and technology advancement and the needs for safeguarding agricultural product quality and safety.

Article 19 MARA publishes and implements agricultural product quality and safety standards together with relevant government agencies.

Chapter III Places of Origin of Agricultural Products

Article 20 China establishes a monitoring system for the places of origin of agricultural products.

The county and above level agriculture departments, together with the ecological environment and the natural resources departments of the same level, formulate monitoring plans for the places of origin of agricultural products, and strengthen safety survey/investigation, surveillance and assessment of the places of origin of agricultural products.

Article 21 The county and above level agriculture departments, together with the ecological environment and the natural resources departments of the same level, propose plans for defining strict

control areas for specific agriculture products⁶; such plans are developed following requirements of agricultural product quality and safety, characters of the crop varieties, surveillance and assessment results; the plans will be announced after approval by the municipal government of the same level. The specific measures will be developed by MARA after consultations with the ecological environment and the natural resources departments of the State Council.

The adjustment of the strict control areas for specific agriculture products are carried out in compliance with the procedures prescribed in the preceding paragraph.

Article 22 It is prohibited to produce, fish or collect certain agricultural products or to build up production bases of certain agricultural products in the strict control areas for specific agriculture products.

Article 23 It is prohibited to discharge or dump wastewater, waste gas, solid wastes, or other toxic and harmful substances to the place of origin of agricultural products, which is in violation of laws and regulations.

The water used for agricultural production and the solid wastes used as fertilizers should conform to requirements of laws, regulations and relevant compulsory standards in China.

Article 24 A producer of agricultural products should use agricultural inputs (such as pesticides, veterinary drugs, fertilizers and agricultural films) in a reasonable way, and prevent pollution caused by such inputs to the place of origin of agricultural products.

Producers, operators, and users of agricultural inputs (such as pesticides, fertilizers, and agricultural films) should collect and properly dispose of packaging and wastes. Detailed measures will be developed by MARA after consultation with the ecological environment department and the industry and information technology departments of the State Council.

Article 25 The municipal government at the county level or above should take measures to strengthen the construction of agricultural product bases, promote the construction of comprehensive demonstration areas for standardized production, and improve the conditions for production of agricultural products.

Chapter IV Production of Agricultural Products

Article 26 The county and above level agriculture department should formulate the technical production requirements and the standard operation procedures that ensure agricultural product quality by considering the local conditions; they should reinforce training and guidance for production of agricultural product.

⁶ Note: certain agricultural products are not allowed to be grown in the strict control areas for specific agriculture products

Article 27 A producer of agricultural products should establish quality and safety management system, which has suitable technicians. Where a producer cannot have such technicians, it should entrust personnel with professional technical knowledge to provide guidance on agricultural product quality and safety. China encourages and supports agricultural product producers, professional farmer cooperatives and socialized agricultural service organizations to establish and implement the hazard analysis and the critical control point (HACCP) system, thereby implementing good production practices.

Article 28 Producers of agricultural products, professional farmer cooperatives and socialized agricultural service organizations should establish records on production of agricultural products, and truthfully record the following items:

- 1) the name, source, usage, dosage of the agricultural inputs; date of using it, and the date of stopping using it.
- 2) occurrence, prevention and control of animal epidemic diseases and insect pests; and
- 3) the date of harvest, slaughter or fishing.

The records on production of agricultural products should be kept for at least two years. It is prohibited to falsify records of agricultural products production.

China encourages other producers of agricultural products to establish records on production of agricultural products.

Article 29 In accordance with relevant laws and regulations, (China) adopts licensing systems for pesticides, veterinary drugs, feeds and feed additives, fertilizers, and veterinary devices that might affect agricultural product quality and safety.

MARA and the provincial agriculture departments should regularly conduct sampling inspections on agricultural inputs (such as pesticides, veterinary drugs, feeds and feed additives, and fertilizers) that might harm agricultural product quality and safety; the sampling inspection results should be announced.

Article 30 Producers and operators of agricultural products shall, in accordance with the laws, regulations, and MARA rules, properly use the agricultural input products, strictly follow the provisions on safe intervals or withdrawal period, so as to prevent harm to agricultural product quality and safety.

It is prohibited to, in the process of production, use agricultural inputs banned for use in China and other toxic and harmful substances.

Article 31 The sites for agricultural product production and the facilities, equipment, disinfectants, detergents, etc. used in production should conform to relevant quality and safety regulations to prevent contaminated.

Article 32 The county and above level agriculture and rural affairs departments should strengthen its management and guidance for the use of agricultural inputs; they should establish and improve the

system for safe use of agricultural inputs, popularize the scientific use of agricultural inputs as well as popularize the use of green, safe, and environmentally friendly agricultural input products.

Article 33 Agricultural research and educational institutions and agricultural technology extension institutions should reinforce trainings for producers and operators on quality and safety knowledge and skills.

Article 34 China strengthens the protection and management of agricultural products with geographical indications. Producers and operators are encouraged to select and use high-quality and agricultural products with specialties, adopt green production technology and the whole-process quality control technology, so as to improve the quality of agricultural products and build (recognizable/famous) agricultural product brands.

China encourages producers and operators to produce quality agricultural products outperform (relevant indices of) quality and safety standards.

Chapter V Packages and Marks of Agricultural Products

Article 35 Where the agricultural products, sold by agricultural products producer, by professional farmer cooperatives, by entities engaging in purchase of agricultural products, or by individuals, are required to be packed or be labeled, they should be sold after packed or labeled. The packages or labels should indicate the product name, place of production, producer, date of production, shelf life, product quality grade, etc.; if any additive is used, the name of the additive should also be indicated according to relevant provisions. The specific measures are developed by MARA.

Article 36 The materials used in package, preservation, storage and transport of agricultural products, such as preservatives, antiseptics and additives, etc., should conform to relevant quality and safety regulations to prevent contamination of agricultural products.

It is prohibited to store and transport agricultural products together with toxic and harmful substances.

Article 37 An agricultural product under any of the following circumstances should not be sold:

- 1) It contains pesticide, veterinary drug or other chemical substance prohibited for use in China.
- 2) The residue of chemical substances such as pesticides or veterinary drugs, or the toxic and harmful substances contained (such as heavy metal) does not conform to the agricultural product quality and safety standards.
- 3) The pathogenic parasites, microorganisms or biological toxin contained does not meet the agricultural product quality and safety standards.
- 4) The material used, such as the preservative, antiseptic or additive, etc., does not meet the relevant quality and safety regulations in China.
- 5) The package material used does not meet the relevant quality and safety regulations in China.

- 6) Product from animals that have died of disease, poison, or unknown causes and the product processed from such animals.
- 7) Other circumstances that do not meet the agricultural product quality and safety standards.

The agricultural product not allowed for sale as prescribed in the preceding paragraph should be disposed of in accordance with relevant laws and regulations.

Article 38 A producer of agricultural products or a professional farmer cooperative should test quality and safety of agricultural product either by itself or by entrusting a testing institution. Agricultural products tested non-compliant shall not be sold.

Article 39 Producers of agricultural products or professional farmer cooperatives should implement the quality and safety control requirements provided in laws, regulations and relevant compulsory standards; they should issue the “Self-Commitment Certificate of Edible Agricultural Products for Safety (hereinafter referred to as the Self-Commitment Certificate of Edible Agricultural Products), and promise that the edible agricultural products sold meet the agricultural product quality and safety standards and it is to be held accountable for quality and safety of its agricultural products. China encourages other qualified producers of agricultural products to issue the edible agricultural product certificate.

An entity or an individual engaging in the purchase of agricultural products should request and keep the Self-Commitment Certificate of Edible Agricultural Products or other quality and safety certification materials provided by the suppliers.

The administrative measures for the Self-Commitment Certificate of Edible Agricultural Products will be developed by MARA together with relevant departments.

Article 40 China adopts traceability management of edible agricultural products listed in the catalogue for traceability of edible agricultural product quality and safety. MARA should, together with SAMR, establish a traceability collaboration mechanism for edible agricultural product quality and safety. MARA together with SAMR and other departments are responsible for development of the measures and the traceability catalogue.

China encourages qualified producers and operators of agricultural products to adopt modern information technology tools to collect and keep production and operating information such as production records, purchase and sales records.

Article 41 The agricultural products sold must meet the agricultural product quality and safety standards. If the quality of the agricultural products meets the standards for quality agricultural products, the operator of the products could apply for using relevant quality marks of agricultural products.

It is prohibited to imitate the quality marks of agricultural products as prescribed in the preceding paragraph.

Article 42 The agricultural biotech products should be marked in accordance with the relevant administrative measures for agricultural biotech products.

Article 43 Animals and plants required by the law to be quarantined and their products, should have quarantine marks of conformity and quarantine certificates of conformity attached.

Chapter VI Supervision and Administration

Article 44 The county and above level agriculture and rural affairs departments should, based on the results of risk surveillance and risk assessment as well as the status of agricultural product quality and safety, formulate a supervision and sampling plan, determine the focus, method and frequency sampling inspections, and implement the “grading of risk” management of agricultural product quality and safety risks.

When conducting risk surveillance and risk assessment, the county and above level agriculture and rural affairs department could enter the place of origin, the wholesale and retail markets if needed.

Article 45 The county and above level agriculture and rural affairs departments should organize and conduct sampling inspections of agricultural product quality and safety in accordance with the sampling inspection plans.

Sampling tests of agricultural product quality and safety should be entrusted to testing institutions that meet the conditions in the Law; no fee is charged for sampling tests. The samples for testing should be purchased at market price; the samples taken shall not exceed the quantity prescribed by MARA.

For the agricultural products tested by higher level agriculture and rural affairs department should not be tested again by the lower-level agriculture and rural affairs departments.

Article 46 Agricultural product quality and safety tests should be conducted by the existing qualified testing institutions.

Institutions engaging in agricultural product quality and safety tests must have relevant conditions and capacities and should pass the assessment of the provincial agriculture and rural affairs department or its authorized department. Specific measures are developed by MARA.

An agricultural product quality and safety test institution should have legal accreditation.

Article 47 Personnel engaging in agricultural product quality and safety test should have corresponding professional knowledge and practical operation skills; they should abide by disciplines and laws as well as professional ethics.

The testing report issued by the agricultural product quality and safety testing objective and fair, and the test data should be faithful and reliable. It is strictly prohibited to issue a false testing report.

Article 48 The county and above level agriculture and rural affairs department could use the rapid testing method recognized by MARA, SAMR and other departments to conduct sampling tests of agricultural product quality and safety. If the sampling test results indicate relevant agricultural products are incompliant to agricultural product quality and safety standards, such results could serve as the basis for administrative penalty.

Article 49 Where a producer or an operator holds different opinions of the sampling test results, it may, within five days as of receipt of the test result, apply to the agriculture and rural affairs department that conducted the sampling tests or the higher-level agriculture and rural department for a re-test.

Where the rapid testing is used in sampling tests, if the selected (producer or operator) holds different opinions of the testing results, it may, within four hours as of receipt of the test result, apply for a re-test. The re-test should not use the rapid testing methods.

Where the error in testing results causes any loss to the person/party concerned, (the testing institution) should bear liabilities for compensation in accordance with the law.

Article 50 The county and above level agriculture and rural affairs department should strengthen oversight of agricultural product production, conduct routine inspections with focus on the production environment, the purchase and use of agricultural inputs, records on the production, and the issuance of the Self-Commitment Certificate of Edible Agricultural Products.

China encourages local autonomous institutions⁷ to establish the agricultural product quality and safety information staff system, such staff assist the implementation of relevant work.

The county and above level agriculture and rural affairs departments and the market supervision departments should, within their respective jurisdictions, publish relevant information about their routine oversight of agricultural product quality and safety.

Article 51 To carry out agricultural product quality and safety supervision and inspection, (relevant authorities) are entitled to take the following measures:

- 1) Entering the production and operating sites to conduct on-site inspections to learn about agricultural product quality and safety situation.
- 2) Check and copy production records, purchase and sales ledgers and other materials related to agricultural product quality and safety.
- 3) Carrying out sampling tests on agricultural products, agricultural inputs and other related products which are produced and operated.

⁷ Note: local autonomous institutions include villagers' committee and urban residents' committee.

- 4) Sealing up or detaining agricultural products which have been proved to have potential safety risks or do not meet the agricultural product quality and safety standards upon testing.
- 5) Sealing up or detaining agricultural inputs and other toxic and harmful substances which have been proved to endanger the agricultural product quality and safety or do not meet the agricultural product quality and safety standards upon testing.
- 6) Sealing up and detaining facilities, equipment, sites and transportation tools used for illegal production and operation of agricultural products.

Producers and operators are required to provide assistances and be cooperative in inspections; they shall not refuse or obstruct inspections.

Article 52 The county and above level agriculture and rural affairs departments and other relevant departments should strengthen the credit record system for agricultural product quality and safety, establish credit records for producers and operators, and promote the use and management of credit information on agricultural product quality and safety.

Article 53 Where there are potential quality and safety risks in the production and operation of agricultural products, or the risks are not timely removed, the county and above level agriculture and rural affairs department could summon the legal representative(s) or the person(s) in charge of the producer or the operators for an accountability meeting.

Article 54 China encourages supervision by the public, including entities and individuals, over the agricultural product quality and safety. All entities and individuals have rights to file complaints and report law violations.

The county and above level agriculture and rural affairs departments should establish a system for complaints and reports on agricultural product quality and safety, open the channels, and handle complaints and reports in a timely manner. Issues not under their jurisdiction should be transferred to the competent department and the person submitting the complaints/reports should be notified in writing.

Article 55 The county and above level agriculture and rural affairs department should strengthen training and assessments for safety and quality oversight personnel and law-enforcement personnel. Those who do not have necessary knowledge and competence should not engage in supervision or law enforcement of agricultural product quality and safety.

Article 56 The municipal government at the higher level should supervise and urge the municipal government at the lower level to perform their duties of supervision and oversight. For the local municipal government that does not effectively perform their duties or have serious problems, the municipal government at the higher level could summon the person(s) in charge for an accountability meeting.

Article 57 MARA formulates the national contingency plan for agricultural product quality and safety emergencies together with relevant departments.

The county and above level local municipal governments should formulate local contingency plans for agricultural product quality and safety emergencies in accordance with laws, regulations and the plans formulated by the municipal governments at the higher level.

When an agricultural product quality and safety incident occurs, relevant entities and individuals should immediately take measures to prevent expansion of the incident, and timely report the incident to relevant local authorities. Relevant department receiving the report should timely deal with the incident following the contingency plan for emergencies and report the situation to the municipal government of the same level and the higher level. Major incidents should be timely reported to the State Council and its relevant departments level by level.

No entity or individual should conceal, falsely report or delay reporting of agricultural product quality and safety incident, or conceal, falsify or destroy relevant evidence.

Article 58 The county or above level agriculture and rural affairs department and the market supervision department should promptly notify and share information on agricultural product quality and safety supervision and administration, and strengthen coordination, cooperation and engagement in law enforcement.

Article 59 Where the county or above level agriculture and rural affairs department and the market supervision department find illegal acts which are suspected of crime and the criminal responsibility should be investigated, the case should be timely transferred to the public security authority. The public security authority should investigate into the transferred case in a timely manner; if it believes that criminal facts do exist and criminal responsibility should be investigated, it should file a case for investigation.

Where criminal responsibility should not be investigated but administrative responsibility should be investigated, the public security authority should timely transfer the case to relevant departments such as the agriculture and rural affairs department, the market supervision department, and the supervisory authority⁸, and the departments and organizations concerned should handle the transferred case in accordance with the law.

Where the public security authority requests assistance from the agriculture and rural affairs department, the administrative department of environmental protection, the market supervision department, etc., to provide testing results and conclusions, opinions, and to take harmless treatment of the agricultural products involved in the case, the departments concerned should provide assistance in a timely manner.

⁸ The supervisory authority in China are the commissions of various levels that oversee public officials for their violations in integrity and corruption.

Chapter VII Legal Liabilities

Article 60 Where staff engaging in agricultural product quality and safety supervisory does not perform his supervisory duties, or abuses his powers, neglects his duties and engages in malpractices for personal gain, he/she is subject to administrative sanctions in accordance with the law.

Article 61 Where the local municipal government at the county level or above violates the Law and commits one of the following acts, warnings should be given to the person-in-charge directly responsible and other persons held directly liable, and they should receive demerits or major demerits; if there are serious consequences, they should be demoted or dismissed from office:

- 1) Failure to determine the duties of relevant departments for agricultural product quality and safety oversight, failure to establish and improve an agricultural product quality and safety working mechanism, and failure to fulfill the responsibilities for agricultural product quality and safety oversight duties.
- 2) Failure to formulate a contingency plan for agricultural product quality and safety emergencies within its own jurisdiction, or failure to activate the contingency plan as required after an agricultural product quality and safety incident.

Article 62 Where the agriculture and rural affairs departments and other relevant departments of the municipal government at the county level or above violate the Law and commit one of the following acts, the person-in-charge directly responsible and other persons held directly liable should receive major demerits; If the circumstance is serious, they should be demoted or dismissed from office; if the circumstance is severe, they should be expelled; if it causes serious consequences, the person(s) chiefly in charge should also take the blame and resign:

- 1) Concealing, falsely reporting, and delay reporting the agricultural product quality and safety incident or concealing, forging, and destroying relevant evidence.
- 2) Failure to investigate the agricultural product quality and safety incident as required, or failure to deal with the report on the agricultural product quality and safety incident in a timely manner, causing the expansion or spread of the incident.
- 3) Failure to take commensurate measures in a timely manner after detecting major potential risks in agricultural product quality and safety risk assessments which later cause agricultural product quality and safety incident or adverse social impacts.
- 4) Failure to perform oversight duties, resulting in agricultural product quality and safety incidents.

Article 63 Where the county and above level agriculture and rural affairs department, the market supervision department and other relevant departments conduct illegal inspection or force actions in its law-enforcement and cause losses to a food producer or an operator, they should bear liabilities for indemnity in accordance with the law, and the person-in-charge directly responsible and other persons held directly liable are to be punished in accordance with the law.

Article 64 Where an institution or the staff issues a false testing report or forges a test result, the test qualification of the testing institution will be revoked by the competent authority or institution which granted its qualification, and the test fee charged will be confiscated. In addition, it shall be fined 5 times up to 10 times the test fee; if the test fee is less than 10,000 Yuan, it shall be fined 50,000 Yuan up to 100,000 Yuan. The person-in-charge directly responsible and other persons held directly liable shall be fined 10,000 Yuan up to 50,000 Yuan respectively. If it causes any damages, it shall bear liabilities for indemnity in accordance with the law.

The staff who received criminal penalties due to illegal acts, or who has caused major incident due to the false testing report he/she issues or forges, the person should be banned from agricultural product quality and safety test for life. Where a testing institution employs personnel who are banned to engage in agricultural product quality and safety testing, the testing qualification of the institution should be revoked by the competent authority or institution which granted its qualification.

Where an agricultural product quality and safety testing institution issues a false testing report or forges a test result which causes damages to the legitimate rights and interests of consumers, the institution should bear joint liability with the producer and operators of the agricultural products.

Article 65 Whoever violates any law or regulation by discharging or dumping wastewater, waste gas, solid wastes or other toxic and harmful substances to production area of agricultural products shall be penalized in accordance with the relevant environmental protection laws and regulations; if it/he causes any damages, it/he shall bear liabilities for indemnity in accordance with the law.

Article 66 Whoever violates law or regulations or MARA provisions in agricultural input use shall be penalized in accordance with the relevant laws and administrative regulations.

Article 67 Where producers, operators, and users of agricultural inputs (such as pesticides, fertilizers, and agricultural films) fail to recycle and properly dispose of package materials and wastes as required shall be punished by the county and above level agriculture department in accordance with relevant laws and administrative regulations.

Article 68 Where a producing enterprise of agricultural products commits one of the following acts, it shall be ordered to make a correction within the time limit set by the county and above level agriculture department; if it refuses to make a correction, it shall be fined 5,000 Yuan up to 50,000 Yuan:

- 1) Failure to establish an agricultural product quality and safety management system.
- 2) Failure to assign technical personnel for agricultural product quality and safety management, or failure to entrust professional technical personnel to provide guidance on agricultural product quality and safety.

Article 69 Where a producer and an operator of agricultural products, a professional farmer cooperative or a socialized agricultural service organizations fails to establish or keep production records, or forges

records, the county and above level agriculture department shall order it to take corrections within the time limit; if it refuses to make a correction, it shall be fined 2,000 Yuan up to 20,000 Yuan.

Article 70 Where a producer or an operator commits one of the following acts which does not constitute a crime, it shall be ordered to cease production and operation, recall the agricultural products that have been sold, and take harmless treatment of the illegally produced and operated agricultural products, or destroy the product under supervision of the county and above level agriculture department. In addition, the tools, equipment, raw materials and other items used in its illegal production and operation shall be confiscated; where the value of illegally produced and operated agricultural products is less than 10,000 Yuan, it shall be fined 100,000 Yuan up to 150,000 Yuan; where the value is more than 10,000 Yuan, it shall be fined 15 times up to 30 times the value of the agricultural products; the farmer household shall be fined 1,000 Yuan up to 10,000 Yuan; if the circumstance is serious, the licensing shall be revoked, and the person-in-charge and other persons held directly liable shall be detained for 5 days up to 15 days by the public security authority. If it causes any damages, it shall bear liabilities for indemnity in accordance with the law:

- 1) Using agricultural input product that is prohibited in China or other toxic and harmful substances in agricultural product production.
- 2) Selling agricultural products containing pesticide, veterinary drug or other chemical substance banned for use in China.
- 3) Selling animal that have died of disease, poison, or unknown causes or the products thereof.

(Entity/individual) knowingly engages in the illegal acts listed above but still provides production and operation premises or other conditions shall be ordered by the county and above level agriculture department to cease the illegal acts. In addition, its illegal gains shall be confiscated, and it shall be fined 100,000 Yuan up to 200,000 Yuan; if it causes damages to the legitimate rights and interests of consumers, it should bear joint liability with the producer or the operator of the agricultural products.

Article 71 Where a producer or an operator of agricultural products commits one of the following acts which does not constitute a crime, it should be ordered by the country and above level agriculture department to cease production and operation, recall the agricultural products that have been sold, and take harmless treatment of the product or destroy the product under supervision, and confiscate illegal gains; the country and above level agriculture department could also confiscate tools, equipment, raw materials and other items used in illegal production and operation. Where the value of illegally produced and operated agricultural products is less than 10,000 Yuan, it shall be fined 50,000 Yuan up to 100,000 Yuan; where the value is more than 10,000 Yuan, it shall be fined 10 times up to 20 times the value of the agricultural products; the farmer household shall be fined 500 Yuan up to 5,000 Yuan. If it causes any damage, it shall bear liabilities for indemnity in accordance with the law:

- 1) Selling agricultural product with residues of chemical substances (such as pesticides and veterinary drugs) or containing heavy metals and other toxic and harmful substances, which does not meet the agricultural product quality and safety standards.
- 2) Selling agricultural products containing pathogenic parasites, microorganisms or biotoxins, which does not meet the agricultural product quality and safety standards.
- 3) Producing and operating agricultural products which do not meet the agricultural product quality and safety standards.

Article 72 Where a producer or an operator commits one of the following acts, it shall be ordered by the county and above level agriculture department to cease production and operation, recall the agricultural products that have been sold, and take harmless treatment of the illegally produced and operated agricultural products or destroy them under supervision. In addition, its illegal gains, tools, equipment, raw materials and other items used in illegal production and operation shall be confiscated; where the value of illegally produced and operated agricultural products is less than 10,000 Yuan, it shall be fined 5,000 Yuan up to 50,000 Yuan; where the value is more than 10,000 Yuan, it shall be fined 5 times up to 10 times the value of the agricultural products; the farmer household shall be fined 500 Yuan up to 5,000 Yuan. If it causes any damage, it shall bear liabilities for indemnity in accordance with the law:

- 1) The facilities, equipment, disinfectants, detergents, etc. used in the production sites and production activities do not meet relevant quality and safety regulations in China.
- 2) The preservatives, antiseptics, additives and other materials used do not meet relevant quality and safety regulations in China.
- 3) Agricultural products are stored and transported together with toxic and harmful substances.
- 4) The package materials used do not meet relevant quality and safety regulations in China.

Article 73 Where a producer or an operator of agricultural products commits one of the following acts, it shall be fined 2,000 Yuan up to 10,000 Yuan by the county and above level agriculture department:

- 1) An agricultural product producing enterprise, or a professional farmer cooperative fails to issue the Self-Commitment Certificate of Edible Agricultural Products as required.
- 2) An entity or an individual engaging in the purchase of agricultural products fails to request for and keep the Self-Commitment Certificate of Edible Agricultural Products or other quality and safety certification from the supplier.

Article 74 Where a producer or an operator fraudulently uses the agricultural product quality mark or sells agricultural products with the fraudulently used agricultural product quality mark, the county and above level agriculture department should order the producer or the operator to take correction measures and confiscate its illegal gains. Where the value of illegally produced and operated agricultural products is less than 5,000 Yuan, it shall be fined 5,000 Yuan up to 50,000 Yuan; where the value is more than 5,000 Yuan, it shall be fined 10 times up to 20 times the value of the agricultural products.

Article 75 Whoever violates the provisions in this Law on traceability of the edible agricultural product quality and safety shall be ordered by the county and above level agriculture department to make a correction within the time limit; if it refuses to make a correction, it shall be fined 5,000 Yuan up to 50,000 Yuan.

Article 76 Whoever violates this Law, refuses or obstructs supervision and inspection of agricultural product quality and safety, incident investigation and handling, sampling testing and risk assessment conducted legally, shall be ordered to cease production and operation by the relevant administrative departments and shall be fined 2,000 Yuan up to 50,000 Yuan; If it constitutes an act in violation of public security administration, it shall be penalized by the public security authority.

Article 77 Where the *Food Safety Law* has provisions on illegal acts and legal liabilities about edible agricultural product enter the wholesale and retail markets or producing/processing, penalties should be imposed by the county or above level market supervision department in accordance with the provisions.

Article 78 Whoever violates the Law and has committed a crime are subject to criminal liabilities in accordance with this Law.

Article 79 Whoever violates the provisions of this Law and causes personal, property or other damages to consumers should bear civil liabilities for indemnity in accordance with this Law. When the property of the producer or the operator is not enough to bear both civil liabilities for indemnity and payment of fines and penalties, it should first bear civil liabilities for indemnity.

Chapter VIII Supplementary Provisions

Article 80 The quality and safety administration of grain purchase, storage and transportation are implemented in accordance with the laws and administrative regulations on grain management.

Article 81 The Law come into force on XX-XX-XXXX.

END OF TRANSLATION

Attachments:

No Attachments.