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**Food and Agricultural Import Regulations and
Standards**

**Guangdong Province Regulation on the Manufacture
or Sale of False, Counterfeit, or Inferior Goods
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Report Highlights:

This is an UNOFFICIAL English translation of the Guangdong Province *Regulation on the Manufacture or Sale of False, Counterfeit, or Inferior Goods* and should be used as a guide only. Exporters should carefully discuss regulations and their application with Chinese importers to ensure that their interpretation of the regulations is accurate.

Includes PSD changes: No
Includes Trade Matrix: No
Annual Report
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This report was prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Beijing, People's Republic of China for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. **FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.**

Summary

This regulation provides the guidelines for products that are considered false, counterfeit, or inferior and implements measures to strengthen administration and law enforcement against illegal production, manufacturing, and trade in Guangdong Province. The regulation also provides stricter enforcement measures and penalties. Guangdong province Public Security Administration has statutory authority for enforcing this regulation.

Guangdong Province Regulation on the Manufacture or Sale of False, Counterfeit, or Inferior Goods

"Regulations on Investigating and Dealing with the Illegal Manufacturing or Sale of False, Counterfeit, or Inferior Products in Guangdong Province." These regulations were passed in the twelfth meeting of the Standing Committee of the Ninth People's Congress of the Guangdong Province on September 24, 1999. These Regulations shall be effective from November 1, 1999.

Chapter One: General Provisions

Article 1: In order to investigate and deal with the illegal manufacturing or sale of false, counterfeit, or inferior commodities, to protect the lawful rights and benefits of consumers, and to maintain the market economy, these regulations are created in accordance with the relevant laws and regulations and in compliance with the societal conditions of Guangdong Province.

Article 2: These regulations apply to investigations and dealing with the illegal manufacturing or sale of false, counterfeit, or inferior commodities or providing services for the manufacturing and sale of false, counterfeit, or inferior commodities within the administrative region of Guangdong Province (hereinafter referred to as cracking down on counterfeits).

Article 3: It is forbidden to manufacture and sell false, counterfeit, or inferior commodities or to provide services for the manufacturing and sale of false, counterfeit, or inferior commodities.

Article 4: Governments, at all levels, shall establish a work responsibility system for cracking down on counterfeits, strengthening the organization and leadership of cracking down on counterfeits, and supervise and encourage the administrative and law enforcement departments to launch the cracking down on counterfeits campaign.

Article 5: The supervisory departments of quality and technology and the administrative departments of industry and commerce above the county level are responsible for cracking down on counterfeits according to their job responsibilities. Other departments shall assume responsibilities specified in other relevant laws and

regulations.

Article 6: Consumers, enterprises, media, and other organizations and individuals are encouraged to monitor and report illegal activities of the manufacturing and sale of false, counterfeit, or inferior commodities or the illegal activities of providing services for manufacturing and sale of false, counterfeit, or inferior commodities, and to assist the government in the cracking down on counterfeits campaign.

Article 7: Commodities with the following features are classified as false, counterfeit, or inferior commodities:

1. Counterfeit registered trademarks;
2. Counterfeit patents;
3. Copyright pirating;
4. Counterfeit certificates of origin, counterfeit names and addresses of manufacturers;
5. Counterfeit certificates, international standards labels, quality recognition labels, and authentication labels;
6. Noncompliance with manufacturing standards;
7. Mixing counterfeit with genuine, mixing inferior with superior, mixing old with new, and mixing unqualified with qualified commodities;
8. Manufacturing in compliance with the production licensing system but without a production license; or having a counterfeit production license or serial number;
9. Explicitly eliminated by the State;
10. Expired, ineffectual, and deteriorated commodities.

Article 8: Commodities with the following features are considered false, counterfeit, or inferior commodities:

1. Commodities without performance standards or without serial numbers of the performance standards;
2. Commodities without quality certificates;
3. Commodities without Chinese labels indicating the name and the names and addresses of the manufacturers;
4. Commodities with a validity period but not labeled with the manufacturing date and period of validity, or with false or altered manufacturing date and period of validity.
5. Commodities manufactured according to standards but without a manufacturing permit or having a counterfeit manufacturing permit or serial number;
6. Commodities that fail label specifications, grade, names, and amount of the ingredients;
7. Commodities dangerous to the human body and property; or commodities that can be easily damaged by inappropriate use and are not labeled with warning signs or warning descriptions in Chinese;
8. Commodities that are poisonous, dangerous, or fragile shall not be put upside down during transportation or have other special requirements that are without label warning signs or descriptions in Chinese;
9. Commodities with falsified labels.

If the above mentioned items are subject to other State regulations, the item shall comply with those State regulations.

Article 9: Providing commodities described in Article 7 and Article 8 as service payments, sales promotions, or prizes shall constitute the sale of false, counterfeit, or inferior commodities.

Article 10: The following activities are classified as providing services to the manufacture and sale of false, counterfeit, or inferior commodities:

1. Knowing about manufacturing or sale activity of false, counterfeit, or inferior commodities and knowingly providing location, equipment, storage, or transportation;

2. Teaching methods and techniques for the manufacture and sale of false, counterfeit, or inferior commodities;
3. Providing advertising services for the manufacture and sale of false, counterfeit, or inferior commodities through production, publishing, broadcast, posters, or other forms;
4. Helping print, produce, or provide labels or packaging for false, counterfeit, or inferior commodities;
5. Helping hide, transfer, or destroy false, counterfeit, or inferior commodities that are detained or sealed;
6. Providing counterfeit certificates for the manufacture or sale of false, counterfeit, or inferior commodities.

Article 11: The administrative and law enforcement departments can exercise the following discretion when inspecting cases in accordance with the law:

1. Inquire of relevant manufacturers, sellers, service providers (hereafter referred to as suspects), beneficiaries, and witnesses and request them to provide relevant information;
2. Examine relevant property and locations; search, duplicate, record, and retain relevant contracts, original records, vouchers, books, or other relevant materials;
3. Detain and seal commodities suspected false, counterfeit, or inferior commodities and related materials, semi-finished products, tools, equipment, etc.;
4. Other actions as specified in laws and regulations.

Article 12: When administrative and law enforcement departments investigate and deal with cases in accordance with the law, these officials shall comprise no fewer than two enforcement personnel who shall display their enforcement credentials.

Article 13: When the administrative and law enforcement personnel investigate and deal with cases in accordance with the law, no organization or individual shall interfere nor refuse to cooperate. The suspects, beneficiaries and witnesses under investigation shall provide relevant information and materials without reservation.

Article 14: If products shall be detained or sealed, authorities shall be approved by the heads of the administrative and law enforcement departments above the county level. If an examination of the products that are detained or sealed is necessary, the products shall be sent for testing within seven days from the time the products are detained or sealed. No units or individuals, without the permission of the administrative and law enforcement departments, that seal up the products shall unseal, transfer, use, change, destroy or sell the sealed products.

Article 15: If a test is necessary for products that are suspected to be false, counterfeit, or inferior, the administrative and law enforcement personnel shall take samples in accordance with the relevant regulations and send them to a certified testing institution for examination. The testing institution shall produce a written exam report within the specified time. If the products are suspected to be false manufacturers brands or names and addresses, the products can be sent to the enterprises whose rights have been violated upon for examination. Those enterprises shall produce an examination report within seven days from the day of receiving the samples for examination. The administrative and law enforcement departments shall reach a conclusion within seven days of the receipt of the examination report.

If the products are certified as false, counterfeit, or inferior products, the examination fee shall be the responsibility of the criminals. If the products are not certified in the category of false, counterfeit, or inferior products, the examination fee and the sample fee shall be paid from the budget of the administrative and law enforcement departments that sent the samples for examination, or be paid in accordance with the relevant

regulations of the State.

If the products being detained and sealed are not certified in the category of false, counterfeit, or inferior products, the products shall be released or unsealed and returned to the owners within three days from the date of the examination conclusion. If there is any loss or damage to the products, compensation shall be made in accordance with the law.

Article 16: After false, counterfeit, or inferior products are examined and the results are published, the criminals shall go to the administrative and law enforcement departments to receive penalties within fifteen days from the date of publication. Otherwise the administrative and law enforcement departments can confiscate the false, counterfeit, or inferior products together with the articles related to the case. Meanwhile, the criminals are not exempt from any other legal responsibilities .

Article 17: The administration and legal departments shall build archives of manufacturers and sellers of false, counterfeit, or inferior products being investigated; publish the names and addresses of the lawbreaking units; publish the names of the legal representatives or people in charge; publish the names of the false, counterfeit, or inferior products; and publish the examination conclusion.

Article 18: When the administration and law enforcement departments investigate cases in accordance with the law and find illegal acts that may constitute a crime, the departments shall transfer the case to the public security office for further investigation within seven days of the initial finding. If the public security office investigates the case in accordance with the law and finds that the suspected illegal acts do not constitute a crime, the public security organs shall transfer the case back to the relevant departments for investigation. If the public security office or relevant administration or law enforcement departments accept the case, the public security office shall provide a written statement informing the department that transferred the case. If the public security office does not accept the case, the public security office shall provide a written explanation to the departments that attempted to transfer the case.

When a case is transferred, the investigation materials shall be transferred along with any properties that are detained or sealed. The personnel and the properties relevant to the case shall not be disposed of separately.

Article 19: The administrative and law enforcement departments shall offer an award to the individual or unit that made the accusation. The award shall not be more than 50,000 RMB or more than 10 percent of the actual confiscated amount. The reward shall be paid through the case budget (8.265 RMB equals 1 USD).

Article 20: Manufacturers shall be ordered to stop manufacturing products listed in Article 7. The false, counterfeit, or inferior products and sales income shall be confiscated. The manufacturer shall be fined an amount between 20,000 RMB to 100,000 RMB. If the total value of the false, counterfeit, or inferior products exceeds 100,000 RMB, the manufacturer shall be fined an amount between one time to five times the total value of the false, counterfeit, or inferior products. If the case is serious, the relative manufacturing tools, equipment, raw materials, and semi-finished products shall be confiscated and the manufacturers shall have their licenses revoked in accordance with the law.

Sellers shall be ordered to halt the sale of products listed in Article 7. The false, counterfeit, or inferior products and sales income shall be confiscated. The sellers shall be fined an amount no greater than 100,000 RMB. If the total value of the false, counterfeit, or inferior products exceeds 100,000 RMB, the sellers shall be fined an

amount between one time to five times the total value of the false, counterfeit, or inferior products, and shall have their licenses revoked in accordance with the law.

Article 21: Those organizations that are manufacturers or sellers of the below mentioned items shall be ordered to halt the manufacture or sale of false, counterfeit, or inferior products. The false, counterfeit, or inferior products and the sales income shall be confiscated. The manufacturers and sales licenses can be revoked in accordance with the law. The manufacturers shall be fined an amount between 50,000 RMB to 200,000 RMB. If the total value of the false, counterfeit, or inferior products exceeds 100,000 RMB, the manufacturers shall be fined an amount between two to five times the total value of the false, counterfeit, or inferior products and the relative manufacturing tools, equipment, raw materials, semi-finished products shall be confiscated. The sellers shall be fined an amount no more than 200,000 RMB. If the total value of the false, counterfeit, or inferior products exceeds 100,000 RMB, the sellers shall be fined an amount between two to five times the total value of the false, counterfeit, or inferior products.

1. False, counterfeit, or inferior food, salt, drinks, alcohols, tobaccos, drugs, cosmetics, toys, medical instruments and apparatus, or medical and health materials;
2. False, counterfeit, or inferior electrical appliances and their parts, elevators and escalators, pressure vessels, gas combustors, combustibles and explosives, automobiles (ships) and their parts;
3. False, counterfeit, or inferior seeds, fertilizers, pesticides, animal drugs, feeds, cements, steel or other important production materials;
4. Other products dangerous to human health, the human body, or property.

Article 22: The manufacturers or sellers of the products listed in Article 8, shall be ordered to make arrears, within a certain period and shall be fined an amount between 500 RMB to 10,000 RMB. If the case is serious or if the manufacturers and sellers refuse to amend their practices, the false, counterfeit, or inferior products and the sales income shall be confiscated. The manufacturers and sellers shall be fined an amount between 10,000 RMB to 30,000 RMB.

Article 23: Unlicensed manufacturers that are manufacturing products listed in Article 7 and Article 8 shall have false, counterfeit, or inferior products and the sales income, manufacturing tools, equipment, raw materials, and semi-finished products confiscated. Unlicensed manufacturers shall also be fined an amount between 20,000 RMB to 200,000 RMB. If the total value of the false, counterfeit, or inferior products exceeds 100,000 RMB, the manufacturers shall be fined an amount between two to five times the total value of the false, counterfeit, or inferior products.

Article 24: Manufacturers or sellers of the activities described in Article 9 shall be penalized in accordance with Article 20, Article 21 and Article 22.

Article 25: Manufacturers or sellers of the activities described in Article 10 shall be ordered to amend their activities, have any service income confiscated, and be fined an amount no more than 100,000 RMB. If the service income exceeds 100,000 RMB, the manufacturers or sellers shall be fined an amount between one to five times the service income.

Those that help print, produce or provide false labels or packaging shall have the false labels, packaging, moulds, raw materials, semi-finished products confiscated in addition to the above mentioned penalties. If the case is serious, the manufacturers or sellers shall have the manufacturing equipment confiscated and licenses revoked.

Article 26: The legal representatives or people in direct charge of the units that manufacture or sell false, counterfeit, or inferior products or provide service to manufacturers and sellers of false, counterfeit and inferior products shall be fined an amount between 10,000 RMB to 50,000 RMB; and shall receive disciplinary sanctions from relevant departments.

The legal representatives or people in charge of units that violate these regulations and have their licenses revoked, shall not hold the post of legal representative or person in charge for five years from the time of conviction.

Article 27: Those who unseal, transfer, use, change, destroy, or sell the detained or sealed products without permission shall be fined an amount between 20,000 RMB to 100,000 RMB. If the total value of the products that are detained or sealed exceeds 100,000 RMB, the offenders shall be fined an amount two to five times the total value of the products.

Article 28: Criminals who engage in one of the following activities can be exempted from penalty or given leniency in accordance with the law:

1. Criminals who provide truthful information regarding the location of manufacturers, sellers, storage keepers, forwarders, and other relevant information;
2. Criminals who implicate other illegal activities and make contributions to revealing those illegal acts;
3. Criminals who adopt effective measures to keep false, counterfeit, or inferior products from harming people.

Article 29: If the manufacture or sale activities of false, counterfeit, or inferior products or providing services for the manufacture and sale of false, counterfeit, or inferior products constitutes a crime, the relevant parties shall be penalized in accordance with the Criminal Law.

Article 30: If the relevant parties do not accept the penalties that are imposed by the administrative and law-enforcement departments, the relevant parties can appeal for reconsideration of the decision in accordance with the law or file administrative litigation.

If the relevant parties neither apply for reconsideration nor file litigation with the people's court within the specified time or the relevant parties do not resolve the penalty, the administrative and law enforcement departments that render the decision shall apply to the people's court for enforcement of the decision.

Article 31: False, counterfeit, or inferior products and the manufacturing tools, equipment, raw materials and semi-finished products that are confiscated shall be disposed of in accordance with the relevant regulations. These items shall not be offered for direct sale.

Article 32: Government officials that participate in the following activities shall receive disciplinary sanctions from the appropriate work units or from their supervisory departments. If the government officials activities constitute a crime, the officials shall be penalized in accordance with Criminal Law.

1. Officials who abuse their authority to conceal the criminal units or individuals; or
2. Officials who are responsible for cracking down on counterfeits but fail to perform appropriate duties; or
3. Officials who release information to criminals and aid criminals escape from the investigation; or
4. Officials who fail to perform responsibilities for transferring criminals to the judicial bodies in accordance with the law; or
5. Officials who take advantage of their office to retaliate against or incriminate the accusers; or

6. Officials who take advantage of their office to interfere with or impede the cracking down on counterfeits.

Article 33: If the illegal manufacture or sale activities of false, counterfeit, or inferior products reoccurs and is serious within an administrative region, the key officials responsible to the local people's government shall be held responsible and shall receive disciplinary sanctions. If the officials actions constitute a crime, the officials shall be penalized in accordance with the Criminal Law.

Article 34: Citizens, corporations, or other organizations shall receive compensation in accordance with the *State Compensation Law of the People's Republic of China* if lawful rights or benefits are impeded upon when administrative or enforcement departments and personnel perform their duties.

Article 35: Any person who impedes administrative and law enforcement personnel from performing duties, without using violence or threats, shall be punished in accordance with Article 19 of the *Public Security Administration Regulations in the People's Republic of China*. Any person who impedes administrative or law enforcement personnel from performing duties, with violence or threats, shall be punished in accordance with Article 277 of the *Criminal Law of the People's Republic of China*.

Article 36: The total value of false, counterfeit, or inferior products quoted in these regulations refers to the total retail market price calculated for non-false, non-counterfeit, or non-inferior products of the same kind.

Article 37: These regulations shall be effective from November 1, 1999.