

Administrative Regulation on Cereal Circulation

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The Administrative Regulation on Cereal Circulation was adopted at the 50th executive meeting of the State Council on May 19, 2004. It is hereby promulgated and shall be implemented as of the date of promulgation.

Premier Wen Jiabao

May 26, 2004.

Administrative Regulation on Cereal Circulation

Chapter I. General Provisions

Article 1 With a view to protecting the initiatives of cereal producers, promoting cereal production, safeguard the legitimate rights and interests of the business operators and consumers, ensure the food security of the state and maintain the order of cereal circulation, the present Regulation is formulated in accordance with the relevant laws.

Article 2 The present Regulation shall apply to the purchase, sale, storage, transportation, processing, import and export of cereal and other related business operations (hereinafter referred to the cereal business).

The term "cereal" as mentioned in the preceding Paragraph refers to wheat, paddy, corn, miscellaneous cereals and food cereals.

Article 3 The state encourages economic bodies of various forms of ownership to engage in the cereal business and promotes fair competition. All lawful cereal business activities are protected by the law of the state. It is strictly prohibited from hampering the free circulation of cereal. The state-owned cereal trading firms shall transform their business mechanism, improve their market competitiveness, and play the leading role as the main distribution channel of cereal and take the lead in following the state's cereal policies.

Article 4 The cereal prices shall mainly be determined by market supply and demand.

The state shall intensify its macro control over the cereal circulation market.

Article 5 The principle of free will, fairness, honesty and good faith shall be observed in cereal business. The legitimate rights and interests of the cereal producers and consumers shall not be impaired, nor may the interests of the state and public interests.

Article 6 The development and reform department and the national cereal administrative department

of the State Council shall be responsible for the nationwide equilibrium of aggregate supply and demand of cereal, macro-control, structural adjustments of important species of cereal and medium and long-term plans on cereal circulation. The national cereal administrative department shall be responsible for the administrative management and guidance of cereal circulation, shall supervise the implementation of the laws, regulations, policies and various rules and bylaws regarding the circulation of cereal.

The departments of the administration for industry and commerce, product quality supervision, hygiene and price of the State Council shall be responsible for the work of cereal circulation within their respective functions.

Under the macro-control of the state, the people's government of a province, autonomous region, and municipality directly under the Central Government shall be responsible for the equilibrium of the overall volume of regional cereal and the management of regional reserve cereal. The cereal administrative department of the people's government on the county level or above shall be responsible for the administrative management and guidance of the local cereal circulation. The departments of the administration for industry and commerce, product quality supervision, hygiene and price of the local people's government on the county level or above shall be responsible for the work of cereal circulation within their respective functions.

Chapter II. Cereal Business

Article 7 The cereal business operators refer to the legal persons, other economic organizations and individual industrial and commercial households engaged in purchases, sales, storage, transportation, processing, import and export of cereal and other related business operations.

Article 8 A business operator engaged in cereal purchases shall meet the following conditions:

- (1) With financing capacity;
- (2) Having necessary cereal storage facilities or having rented such facilities;
- (3) Having corresponding cereal inspection and storage abilities.

The specific condition as mentioned in the preceding Paragraph shall be formulated and announced by the people's government of the province, autonomous region, or municipality directly under the Central Government.

Article 9 A business operator shall not engage in cereal purchases unless it has acquired the cereal purchase qualifications and have gone through the formalities for registration in pursuance of the Administrative Regulation of the People's Republic of China on Company Registration.

When applying for engaging in cereal purchases, the applicant shall file a written application with the cereal administrative department whose level is the same as the administrative department for industry and commerce, in which it shall go through the registration formalities, and it shall offer certification materials of funds, storage facilities, quality inspection and storage ability, etc. The cereal administrative department shall complete the examination within 15 days from the day when it accepts the said application materials. It shall grant the applicant an approval if it meets the conditions as described in Article 8 of the present Regulation and shall make an announcement.

Article 10 Anyone who has obtained the qualification approval granted by the cereal administrative department shall, in accordance with the law, go through the establishment registration formalities in the administrative department for industry and commerce, which shall clearly specify cereal purchase in its business scope. With regard to anyone who has registered in the administrative department for industry and commerce and intends to engage in cereal purchase, it is also required to obtain the cereal purchase qualification approval granted by the cereal administrative department,

to modify the registration of business scope in the administrative department for industry and commerce and to have its business scope clearly specified about the cereal purchases.

Article 11 A cereal business operator engaged in cereal purchases (hereinafter referred to as cereal purchaser) shall inform the cereal sellers of the species, quality standards and purchase prices of cereal, or publicize the said information in the purchase place.

Article 12 When purchasing cereal, a cereal purchaser shall implement national cereal quality standards, shall negotiate the price in light of the quality, shall not impair the interests of the farmers and other cereal producers. It shall timely pay the sellers for the cereal, shall not delay any payment, nor may it accept the entrustment of any organization or individual to withhold any tax, fee or other items.

Article 13 A cereal purchaser shall regularly report the cereal purchase quantity and other related information to the cereal administrative department of the people's government on the county level where the purchase place is located.

When a cereal purchaser purchases cereal by going beyond the province where it is registered, it shall regularly report the cereal purchase quantity and other related information to the cereal administrative departments of the local people's government on the county level where the purchase place is located and where the cereal purchaser is registered.

Article 14 A cereal business operator engaged in engaged in purchases, sales, storage, transportation, processing, import and export of cereal or other related business operations shall go through the registration formalities in the administrative department for industry and commerce.

Article 15 The cereal storage facilities used by a cereal business operator shall be in line with the relevant standards and technical criteria on cereal storage. The cereal shall not be stored together with any harmful materials that possibly pollute it. In the storage of cereal, it is prohibited from using any chemicals banned by the state or overusing any chemicals.

Article 16 In the cereal transportation, the national technical criteria on cereal transportation shall be strictly followed. No polluted transport tool or packing material may be used in the cereal transportation.

Article 17 A business operator engaged in edible cereal processing shall have the essential processing conditions that can guarantee the quality and hygiene of the cereal. It shall not commit any of the following acts:

- (1) Processing any moldy unprocessed food cereal or byproducts;
- (2) Using any additive by violating the relevant provisions;
- (3) Using any packing materials that cannot satisfy the quality and hygiene standards;
- (4) Any other act that may affect the cereal quality and hygiene.

Article 18 In the sales of cereal, the national technical criteria on cereal transportation shall be strictly followed. No one may give short measure, adulterate, sell any defective cereal as cereal of good quality, hoard for speculation, monopolize or manipulate the price, or dominate the market.

Article 19 An out-of-storage quality inspection system shall be established for the sale of cereal. A cereal storage enterprise shall entrust a qualified cereal quality testing institution to determine the quality of the cereal that has exceeded the normal storage time period before the cereal leaves its storage site, any decayed and rotten cereal that doesn't meet the edible cereal hygiene standards shall be strictly prohibited from entering the edible cereal market. The qualifications for purchasing the decayed cereal shall be determined by the cereal administrative department of the provincial people's government jointly with the administrative department for industry and commerce. The

standards on determining the decayed cereal shall be formulated by the cereal administrative department of the provincial people's government jointly with other relevant departments. The specific measures for the sale, handling and supervision of the decayed cereal shall be carried out in accordance with the pertinent regulations of the state.

Article 20 A business operator engaged in purchase, processing and sale of cereal shall keep necessary cereal reserve.

Where necessary, the specific standards on the minimum and maximum cereal reserves shall be formulated by the people's governments on the level of province, autonomous region, or municipality directly under the Central Government.

Article 21 The state-owned and state holding cereal enterprises shall actively purchase cereal, complete the purchase work entrusted by the government and the purchase and sale work of policy cereal, shall obey and serve the national macro-control.

Article 22 With regard to a cereal purchaser that meets the requirements for getting loans, the bank shall timely grant it a purchase loan in accordance with the relevant regulations of the state. The China Agricultural Development Bank shall meet the demand of credit funds for central and local cereal reserves, the cereal under government control and other policy cereal, shall support the state-owned and state holding cereal purchase and distribution enterprises, large leading cereal-industrialization enterprises and other cereal purchase and distribution enterprises according to their respective risk bearing capacity.

Article 23 All business operators engaged in the purchase, sale, storage and processing of cereal, the feedstuff enterprises and industrial-use cereal enterprises shall establish cereal business account books, shall report and submit the basic data of purchase, sale and storage of cereal and pertinent information to the local cereal administrative departments of the people's governments on the county level. The time period for the preservation of the cereal business account books of a cereal business operator shall not be less than 3 years. Where the basic data and pertinent information reported and submitted by a cereal business operator involves any commercial secret, the cereal administrative department shall keep it confidential.

The national cereal circulation statistics system shall be formulated by the cereal administrative department of the state and shall be reported to the statistics department of State Council for approval.

Article 24 The associations of cereal industry and intermediary organizations shall strengthen the self-discipline, shall play the role of supervision and coordination in maintaining the order of cereal market.

Chapter III. Macro-control

Article 25 The state shall intensify the control over cereal market by taking necessary economic and administrative methods such as purchase and sale of reserve cereal, entrusted purchase and price intervention so as to keep the approximate equilibrium of aggregate supply and demand of cereal nationwide and relative stability of price.

Article 26 The state adopts the central and level-by-level cereal reserve system. The cereal reserve shall be used for coordinating the supply and demand of cereal, stabilizing the cereal market and responding to serious natural disasters or other emergencies.

The policy cereal shall, in principle, be purchased and sold through the cereal wholesale market or by other ways as prescribed by the state.

Article 27 The State Council and the people's governments at various levels shall establish and perfect the cereal risk fund system. The cereal risk funds shall mainly be used for offering subsidies

directly to cereal growers, supporting the cereal reserve and stabilizing the cereal market.

The finance department of the State Council and the finance departments of the people's governments at various levels shall be responsible for the supervision and management of cereal risk funds, and shall ensure that the funds be used for exclusive uses.

Article 28 Where any important change occurs between the supply and demand of cereal, for the purpose of guarantee the market supply and protecting the interests of the farmers, the State Council may, if necessary, adopt the minimum purchase price to the important species of cereal in shortage in the main cereal production areas.

When the cereal price rises or may rise remarkably, the State Council and the people's government of the provinces, autonomous regions, or municipalities directly under the Central Government, may take price intervention measures in accordance with the Price Law of the People's Republic of China.

Article 29 The development and reform department of the State Council and the national cereal administrative department shall, jointly with the departments of agriculture, statistics and product quality supervision, be responsible for the monitoring and pre-warning analyses of the supply and demand of the cereal market, shall establish a cereal supply and demand sample inspection system, and release information about cereal production, consumption, price and quality, etc.

Article 30 The state shall encourage the main cereal production areas and the major distribution areas to establish stable production-distribution relationship in multiple ways, shall support the establishment of integrate production and distribution enterprises, shall develop order-based agriculture, shall offer necessary economic preferential treatment when implementing the minimum purchase price, and shall give priority in cereal transportation.

Article 31 When any serious natural disaster, epidemic or any other emergency results in abnormal fluctuations of the supply and demand of cereal market, the state shall implement the cereal emergency response mechanism.

Article 32 The state shall establish a cereal emergency response system. The development and reform department of the State Council and the national cereal administrative department shall, jointly with the pertinent departments of the State Council, formulate a national cereal emergency preparedness and response plan and submit it to the State Council for approval. The people's government of each province, autonomous region, or municipality directly under the Central Government, shall, in light of the actual circumstance within its administrative area, formulate its own cereal emergency response system.

Article 33 With regard to the startup of the national cereal emergency preparedness and response plan, the development and reform department of the State Council and the national cereal administrative department shall put forward a proposal and report it to the State Council for approval. Upon approval of the State Council, the said plan may be started up.

With regard to the startup of the cereal emergency preparedness and response plan of a province, autonomous region, or municipality directly under the Central Government, the development and reform department and the cereal administrative department of this province, autonomous region, or municipality directly under the Central Government, shall put forward a proposal, submit it to the people's government at the same level for making a decision and report it to the State Council.

Article 34 After the cereal emergency preparedness and response plan has been started up, all cereal business operators shall undertake the emergency tasks as required by the state and obey the unified arrangement and deployment of the state so as to meet the needs of emergency response work.

Chapter IV. Supervision and Inspection

Article 35 The cereal administrative departments shall, in pursuance of the present Regulation, conduct supervision and inspection over the cereal business operators engaged in the purchase, storage and transportation of cereals and the purchase and sale of policy cereals, and the implementation of national cereal circulation statistics system.

The cereal administrative departments shall examine and verify the cereal purchase qualifications according to relevant requirements of the state.

When performing the supervision and inspection duty, a cereal administrative department may enter into the business place of the cereal business operator to check the stock of cereal, the quality of cereals in the purchase and storage activities and the hygiene of unprocessed food cereal; shall check whether the cereal storage facilities and equipment meet the national technical requirements or not; shall consult the relevant materials and proofs of the cereal operators; and inquire of pertinent entities and personnel about relevant information.

Article 36 The product quality supervision department shall, according to relevant laws and administrative regulations, conduct supervision and inspection over the illegal acts in processing cereals, such as using shoddy goods as genuine ones or inferior as good quality, and adulterating.

Article 37 The administrative department for industry and commerce shall, in accordance with relevant laws and administrative regulations, conduct supervision and inspection over the illegal acts such as operating without license, operating by going beyond the business scope, hoarding for speculation, dominating the market, forcible buying or selling, adulterating, using inferior goods as quality goods and other illegal acts disturbing the market order and violating the law and regulation.

Article 38 The health administrative departments shall, according to relevant laws and regulations, conduct supervision and inspection over the hygiene in processing and selling cereal, and storing finished product of cereal.

Article 39 The price administrative departments shall, according to relevant law and regulations, conduct supervision and inspection over the price-related illegal acts in the circulation of cereals.

Article 40 Any entity or individual shall be entitled to inform the relevant departments of any act in violation of the present Regulation. The relevant departments shall keep the informer confidential, and shall timely investigate and punish the offender(s).

Chapter V. Legal Liabilities

Article 41 With regard to anyone who engages in cereal purchase activities without approval of the cereal administrative department or without undergoing the registration formalities in the administrative department for industry and commerce, the illegally purchased cereal shall be confiscated. If the circumstance is serious, it (he) shall be fined twice up to 5 times of the value of the purchased cereals; if any crime is constituted, it (she) shall be subject to criminal liabilities. Where it (he) is found by the cereal administrative department, it (he) shall be transferred to the administrative department for industry and commerce and be punished according to the provisions of the preceding paragraph.

Article 42 With regard to anyone who obtains the cereal purchase qualification approval through cheating, offering bribes or any other illegal methods, the cereal administrative department shall revoke its cereal purchase qualifications, the administrative department for industry and commerce shall cancel its business license and confiscate its illegal gains; if any crime is constituted, it shall be subject to criminal liabilities.

Any functionary of the cereal administrative department, who extorts or accepts any property of others or seeks for other interests when he (she) handles the matters relating to cereal purchase qualification approval, shall be subject to criminal liabilities if any crime is constituted; if no crime is constituted, he (she) shall be given an administrative sanction.

Article 43 Where a cereal purchaser fails to inform the cereal sellers of the prescribed items or to publicize the purchase prices of cereal, or purchases cereal by suppressing the level and price of the cereal, monopolizes or manipulates the prices, or commits any other illegal price-related act, it shall be given an administrative punishment by the price administrative department in accordance with the Price Law of the People's Republic of China.

Article 44 Anyone who is under any of the following circumstances shall be ordered to get right, shall be given a warning, and may be fined less than 200,000 yuan by the cereal administrative department; if the circumstance is serious, the cereal administrative department shall suspend or cancel its cereal purchase qualification:

- (1) A cereal purchaser fails to comply with the national cereal quality standards;
- (2) A cereal purchaser fails to timely make payments for cereals and it is so informed by the cereal seller(s);
- (3) A cereal seller withholds any tax, fee or other items by violating the present Regulation;
- (4) A business operator engaged in the purchase, sale, storage or processing of cereals, or an enterprise of feedstuffs or industry-oriented cereals fails to establish cereal business account books, or fails to report the basic data and relevant information in accordance with the relevant regulations;
- (5) A cereal business operator engaged in purchasing and selling policy cereals upon entrustment fails to comply with pertinent policies of the state.

Article 45 Anyone who fails to conduct out-of-storage inspection over the quality of cereal by violating the present Regulation shall be ordered to get right and be given a warning by the cereal administrative department; if the circumstance is serious, it shall be fined twice up to quintuple the value of the out-of-storage cereals, and its business license may be revoked by the administrative department for industry and commerce.

With regard to anyone who scalps decayed cereals or fails to use the decayed cereals by violating the relevant provisions, the illegally scalped cereals shall be confiscated by the administrative department for industry and commerce and he or it shall be fined up to 20 % of the value of the said cereals. If he or it has the qualification for purchasing decayed cereals, his or its purchase qualification shall be canceled by the administrative department of the provincial people's government. If the circumstance is serious, he or it shall be fined twice up to quintuple the value of the illegally scalped cereal and his or its business license shall be revoked by the administrative department for industry and commerce. If any crime is constituted, it shall be subject to criminal liabilities.

Article 46 Where the stock of a business operator engaged in the purchase, processing or distribution of cereals is less than the prescribed minimum stock, the cereal administrative department shall order this business operator to get right and give it a warning; if the circumstance is serious, it shall impose a fine of twice up to quintuple the value of the cereals in shortage and may cancel its cereal purchase qualification. Moreover, the administrative department of industry and commerce may revoke its business license.

Where the stock of a business operator engaged in the purchase, processing or distribution of cereals is less than the prescribed maximum stock, the cereal administrative department shall order this business operator to get right and give it a warning; if the circumstance is serious, it shall impose a fine of twice up to quintuple the value of the excessive cereals and may cancel its cereal purchase qualification, moreover, the administrative department of industry and commerce may revoke its business license.

Article 47 A cereal business operator who fails to use cereal storage facilities or transportation tools by violating the present Regulation shall be ordered to get right by the cereal administrative department or health department. The polluted cereals shall not be sold or processed illegally.

Article 48 Anyone who violates Articles 17 and 18 of the present Regulation shall be punished by the product quality supervision department, administrative department for industry and commerce and health department in pursuance of relevant laws and administrative regulations.

Article 49 A department of public finance who fails to timely appropriate full amount of subsidy funds, or occupy, retain or misappropriate the subsidy funds by violating the provisions of the state on the management of cereal risk fund shall be ordered to get right by the people's government at the same level or by its superior department of public finance. The relevant liable persons shall be given an administrative sanction; if any crime is constituted, they shall be subject to criminal liabilities.

Article 50 Anyone who hinders the free circulation of cereal by violating the present Regulation shall be punished in accordance with the Provisions of the State Council on Banning Regional Blockade in Market Economic Activities.

Article 51 A supervisor or inspector who illegally intervenes the normal business activities of any business operators shall be given an administrative sanction; if any crime is constituted, he (she) shall be subject to criminal liabilities.

Chapter VI. Supplementary Provisions

Article 52 The following terms as mentioned in the present Regulation shall be defined as:
Cereal purchase refers to the activities of purchasing cereal in batch directly from cereal growers or other cereal producers.
Cereal processing refers to the activities of changing the unprocessed cereal into semi-finished food cereal and finished food cereal, or changing the semi-finished food cereal to finished food cereal.

Article 53 The provisions of the present Regulation shall, except for those in Articles 8, 9 and 10, apply to the business operations relating to the purchase, sale, storage, transportation, processing, import and export of soybeans, oil plants and edible plant oil.
The management of import and export of cereal shall be implemented in accordance with relevant laws and administrative regulations.
The management of central cereal reserves shall be implemented in accordance with the Regulations on the Administration of Central Cereal Reserves

Article 54 The present Regulation shall be implemented as of the date of promulgation. The Regulation on Cereal Purchases as issued by the State Council on June 6, 1998 and the Measures for Punishing the Illegal Acts in Cereal Dealings as issued by the State Council on August 5, 1998 shall be simultaneously abolished.