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REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE ADMINISTRATION OF PRODUCT QUALITY CERTIFICATION

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Chapter I General Provisions

Article 1 These Regulations are formulated in order to ensure quality of products, improve the credibility of products, safeguard the interests of the users and consumers, facilitate international trade, and promote international cooperation in quality certification.

Article 2 Product quality certification (hereinafter referred to as certification) is an activity of a certification body, on the basis of product standards and the relevant technical requirements and through its confirmation and issuance of a certificate and certification mark, to certify a product as in conformity with the relevant standards and technical requirements.

Article 3 When a product has its national or sector standards to refer to, an enterprise may apply for its certification to the sector certification committee set up either by the competent department of the standardization administration under the State Council or by other departments authorized by the competent department. Products subject to the provisions of the State laws, administrative regulations, or rules formulated by the competent department of the standardization administration under the State Council together with the relevant administrative departments under the State Council that without being certified they may not be marketed, imported or used, shall be treated according to the State laws, administrative regulations or rules.

Article 4 Certification is classified as safety certification and conformity certification.

Products under safety certification must conform to the requirements of the relevant compulsory standards stipulated in the Standardization Law of the People's Republic of China (hereinafter referred to as the Standardization Law).

Products under conformity certification must conform to the requirements of the national or sector standards provided for by the Standardization Law.

Article 5 The certified products shall, except for inspections subject to the State laws and administrative regulations, be exempt from any other inspection and enjoy such State-prescribed preferential treatments as higher price for higher quality or priority in recommendation for national excellent quality appraisal.

Article 6 The competent department of the standardization administration under the State Council shall be in charge of the unified administration of certification throughout the country. Sector certification committees set up either directly by the competent department of the standardization administration under the State Council or by other administrative departments under the State Council with authorization of the competent department shall be responsible for the actual operations of the certification work.

Chapter II Organization and Management

Article 7 The functions of the competent department of the standardization administration under the State Council in the management of the certification work are as follows:

- (1) formulating principles, policies, plans and programmes for certification;
- (2) unifying or approving patterns of certification marks;
- (3) examining and approving the compositions and articles of association of the certification committee;
- (4) examining and approving the certification testing bodies;
- (5) registering and administering certification inspectors;
- (6) examining and approving and issuing catalogues of products to be covered by certification;
- (7) publishing directories of certified products and their producers;
- (8) being responsible for conducting international activities in certification;
- (9) coordinating and settling major issues in certification work; and
- (10) supervising the operation of certification work.

Article 8 A certification committee shall be composed of experts from the relevant departments of production, marketing, utilization, scientific research and quality supervision of products and its tasks are as follows:

- (1) proposing draft catalogues of products to be covered by certification;
- (2) formulating specific measures for the operation of certification;
- (3) ratifying national or sector standards for the certification purpose;
- (4) recommending testing bodies which shall undertake certification tasks;
- (5) accepting and handling applications for certification;
- (6) organizing the quality system audit of an enterprise applying for certification;
- (7) approving certification, issuing certificates and filing it with the competent department of the standardization administration under the State Council;
- (8) settling the disputes involved in certification;
- (9) being responsible for supervisions and inspections of certified products and their producers; and
- (10) revoking certificates according to law.

Article 9 The competent departments of the standardization administration of the local people's governments at or above the county level shall exercise supervisions and inspections over certified products within their administrative areas and their tasks are as follows:

- (1) investigating and dealing with products which do not conform to the standards applied to when being certified, or products bearing counterfeit certification marks;
- (2) cooperating with the certification committees in supervising the quality of certified products; and
- (3) investigating and dealing with any other act concerning certification which is against the laws, administrative regulations or rules formulated by the competent department of the standardization administration under the State Council together with the relevant administrative departments under the State Council.

Chapter III Qualifications and Procedures

Article 10 Any Chinese or foreign enterprise may apply for certification. An applying enterprise shall have the following qualifications:

- (1) its product meets the requirements of national or sector standards;
- (2) its product can be produced in normal serial production with stable quality; and
- (3) the quality system of the producing enterprise conforms to the national standards for quality control and quality assurance and to the supplementary requirements thereof.

Article 11 An enterprise shall apply for certification in accordance with the following procedures:

(1) A Chinese enterprise shall submit its written application to the certification committee. A foreign enterprise or its sale agent shall submit its written application to the competent department of the standardization administration under the State Council or to the certification committee designated by the competent department;

(2) The certification committee shall inform the testing bodies to conduct testing of the product;

(3) The certification committee shall conduct quality system audit of the producing enterprise applying for certification; and

(4) The certification committee shall issue a certificate and give permission for the use of a certification mark to the product which is qualified for certification.

Product testing and quality system audit of a foreign enterprise may be carried out by foreign certification bodies on commission of certification committees designated by the competent department of the standardization administration under the State Council according to bilateral or multilateral agreements.

Article 12 Enterprises which have obtained the certificates are subject to supervisions and inspections by the certification committees over their products and quality systems. Supervisions and inspections over the products and quality systems of the foreign enterprises which have obtained the certificates may be carried out by foreign certification bodies on commission according to bilateral or multilateral agreements.

Article 13 When the standard applied to a certified product or the quality system of an enterprise has changed to such an extent that the product is no longer up to the qualifications it had when it was certified, the enterprise shall cease using the certification mark.

Chapter IV Testing Bodies and Inspectors

Article 14 Testing bodies shall be examined and accredited by the competent department of the standardization administration under the State Council before they engage in certification testing.

Article 15 Certification inspectors shall be trained and assessed, and registered by the competent department of the standardization administration under the State Council before they carry out inspections over enterprises applying for certification (including enterprises which have received certificates).

Article 16 Testing bodies and inspectors undertaking certification tasks shall perform their functions and obligations set by the competent department of the standardization administration under the State Council and relevant certification committees and be subject to their supervision and check-up.

Article 17 Testing bodies and inspectors undertaking certification tasks shall be accountable for the test reports and inspection reports they present, keep technical secrets of the certified products, and may not illegally possess the scientific and technological achievements of others.

Chapter V Penalty Provisions

Article 18 Any act concerning certification which violates laws, administrative regulations or rules jointly formulated by the competent department of the standardization administration under the State Council and the relevant administrative departments under the State Council shall be subject to penalty in accordance with the provisions of laws, administrative regulations or rules.

Article 19 Should a certified product being delivered and marketed with the certification mark fails to meet the standards applied to when being certified, the competent department of the

standardization administration shall order cessation of its sales and impose a fine not exceeding twice times the amount of the illegal gains.

Should a product either uncertified or failing to pass the certification be delivered and marketed with a certification mark, the competent department of the standardization administration shall order cessation of its sales and impose a fine not exceeding three times the amount of the illegal gains, and a fine not exceeding 5,000 yuan (RMB) may be imposed on the person in charge of the law-breaking unit.

A fine not exceeding three times the amount of the illegal gains shall be imposed by the competent department of the standardization administration for transfer of the certification mark, and a fine not exceeding 5,000 yuan (RMB) may be imposed on the person in charge of the lawbreaking unit.

Article 20 In either of the following cases, the certificate shall be revoked by the certification committee which conferred it:

(1) The quality of the certified product has deteriorated seriously, or the quality system of the producing enterprise is no longer up to the qualifications it had when being certified, which has caused losses and damages to users or consumers.

(2) The supervision and inspection conclude that the certified product does not conform to the standards, for which the producing enterprise is responsible.

Article 21 Should a certified product fails to meet the certification requirements but has been delivered and marketed, the producing enterprise shall guarantee its repair, exchange and refund. The producing enterprise shall be liable for compensation according to law when the product has caused losses and damages to users or consumers.

Article 22 Anyone engaged in the certification management, testing and inspection who transgresses law, neglects his duties or practises favouritism and irregularities shall be subject to administrative sanctions by his employing unit. When a crime is constituted, the offender's criminal responsibilities shall be investigated by judicial authorities according to law.

Article 23 If a party disagrees with a pecuniary penalty, an application for reconsideration of the case may be lodged within 15 days on receipt of the notification of the penalty with the administrative authorities at the next higher level of the authorities which made the penalty decision. If a party still disagrees with the decision of reconsideration, a suit may be brought to the people's court within 15 days on receipt of the decision of reconsideration. A party may also bring a suit to the people's court directly within 15 days on receipt of the notification of the penalty. The authorities which made the penalty decision shall apply to the people's court for compulsory enforcement of the decision, in case a party fails both to apply for reconsideration or initiate legal proceedings with a people's court and to comply with the penalty decision within the specified period.

Chapter VI Supplementary Provisions

Article 24 Certification fees shall be charged and collected from enterprises applying for certification according to the non-profit-making principle. The specific measures for charging shall be laid down separately by the competent department of the standardization administration under the State Council together with the pricing authorities of the State Council.

Article 25 Commodity inspection bodies may carry out quality certification work on import and export commodities according to agreements signed between the national commodity inspection department and the relevant foreign bodies or on commission of the relevant foreign bodies.

Article 26 These Regulations do not apply to military products.

Article 27 The competent department of the standardization administration under the State Council shall be responsible for the interpretation of these Regulations.

Article 28 These Regulations shall come into force as of the date of promulgation.