

C. SPECIAL SUPPLEMENT

CHINESE REGULATIONS

[1]

REGULATIONS ON STANDARDISATION

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Text of "Regulations on the Implementation of the PRC Standardisation Law"

Chapter I. General Principles

Article 1: These regulations were worked out in accordance with the "PRC Standardisation Law", hereinafter referred to as the "Standardisation Law"

Article 2: Standards should be worked out for the following which call for unified technical requirements:

(i) Requirements for the variety, specification, quality and grade of industrial products, or for safety and hygiene.

(ii) Requirements for the design, production, testing, examination, packing, storage, transport and use of industrial products, or requirements for safety and hygiene in the process of production, storage and transport.

(iii) Various technical requirements for environmental protection and relevant methods of examination.

(iv) Technical requirements and methods for prospecting, design, construction and acceptance of projects.

(v) Requirements for technical terms, symbols, code names, methods of drafting and interchangeability relating to industrial production, construction projects and environmental protection.

(vi) Requirements for the variety, specification, quality, grade, examination, packing, storage and transport of farm products (including forestry, animal husbandry, and fishery products, which embrace seeds, seedlings, breeding stock, and breeding poultry - similarly hereinafter) and technical requirements for production and management of these products.

(vii) Technical requirements for information, energy, resources and communications and transportation.

Article 3: The state should promote standardisation in a planned way. Work relating to standardisation should be included in plans of all levels of governments for developing the national economy.

Article 4: The state encourages adoption of international standards and foreign advanced standards and actively joins other countries in mapping out international standards.

Chapter II. Management of Standardisation

Article 5: Standardisation work includes working out and implementing standards and supervising the implementation of standards.

Article 6: The department responsible for standardisation under the State Council exercises unified management of standardisation throughout the country. It performs the following duties:

(i) Organises all units concerned to carry out the laws, statutes, principles and policies regarding standardisation;

(ii) Organises all units concerned to draw up work plans for standardisation nationwide;

(iii) Organises all units concerned to map out national standards;

(iv) Provides guidance for relevant administrative departments under the State Council and administrative departments in charge of standardisation under provincial, autonomous regional and municipal people's governments in their work for standardisation, co-ordinates the work and deals with the relevant problems;

(v) Organises departments concerned to implement standards;

(vi) Supervises and monitors implementation of standards;

(vii) Exercises unified control over assessment of quality of products and the issue of certificates nationwide;

(viii) Takes sole responsibility for establishing professional ties with organisations in charge of international standardisation.

Article 7: Related administrative departments under the State Council are put in charge of standardisation of their own departments and their own trades and perform the following duties:

(i) Enforce the state laws, statutes, principles, and policies on standardisation and work out specific measures to carry out the laws, statutes, principles and policies in their departments and trades.

(ii) Draw up work plans for standardisation in their own departments and trades.

(iii) Draft national standards as assigned by the government, and work out standards for trades.

(iv) Provide guidance to relevant administrative departments in provinces, autonomous regions and municipalities in their standardisation work.

(v) Organise their own departments and trades to implement standards.

(vi) Supervise and check up on implementation of standards.

(vii) As authorised by the administrative department in charge of standardisation under the State Council, assess the quality of products produced by their own trades and issue certificates.

Article 8: Departments in charge of standardisation under provincial, autonomous regional and municipal people's governments exercise unified control of standardisation of their own administrative regions and perform the following duties:

(i) Enforce the state laws, statutes, principles and policies on standardisation and work out specific measures to implement the laws, statutes, principles and policies in their own administrative regions;

(ii) Institute work plans for local standardisation;

(iii) Organise departments concerned to map out local standards;

(iv) Provide guidance for relevant administrative departments in their own administrative zones in

standardisation work, coordinate the work and deal with relevant problems;

(v) Implement standards in their own administrative regions;

(vi) Supervise and check up on implementation of standards.

Article 9: Relevant administrative departments in provinces, autonomous regions and municipalities take care of standardisation of their own departments and trades in their administrative divisions, and perform the following duties:

(i) Enforce the laws, statutes, principles, and policies on standardisation formulated by central government, their own departments, their own trades and their own administrative divisions and work out specific measures to this end;

(ii) Draw up work plans for standardisation of their own departments and their own trades in their own administrative divisions;

(iii) Commit themselves to draft local standards as assigned by provincial, autonomous regional and municipal people's governments;

(iv) Organise their own departments and their own trades in their own administrative divisions to implement standards;

(v) Supervise and monitor implementation of standards.

Article 10: The division of labour between administration departments in charge of standardisation under the urban and county governments and relevant administrative departments is decided upon by provincial, autonomous regional and municipal people's governments.

Chapter III. Institution of Standards

Article 11: National standards should be drawn up (including preparation of standard samples) for the following technical requirements which should be unified across the country:

(i) Requirements for interchangeable and universal technical language;

(ii) Technical requirements for protecting human health, personal safety, and safety of property;

(iii) Technical requirements for basic raw and semi-finished materials, fuel and materials;

(iv) Technical requirements for universal basic components;

(v) Universal methods for testing and examination;

(vi) Requirements for universal management techniques;

(vii) Important technical requirements for engineering construction;

(viii) Technical requirements for other important products which should be put under state control.

Article 12: The department in charge of standardisation under the State Council takes care of the planning, drafting, unified examination and approval, numbering and issuance of state standards.

State standards on engineering construction, medicines, food hygiene, medicines for animals and environmental protection are drafted, examined and approved respectively by the departments in charge of engineering construction, public health, agriculture and environmental protection under the State Council. The methods for numbering and issuance of standards are decided upon by the administrative department in charge of standardisation under the State Council in consultation with the related administrative departments under the State Council.

If procedures for formulating state standards are provided for by the law, the relevant stipulations therein should be adhered to.

Article 13: Unified technical requirements which should be introduced in a particular trade throughout the country should be worked out (including the preparation of standard samples) in the absence of similar state standards. The items in the standards applicable to the trade are defined by the relevant administrative department under the State Council.

Article 14. The administrative department concerned under the State Council takes care of planning, drafting, unified examination and approval, numbering and release of the standards for particular trades and reports to the administrative department in charge of standardisation under the State Council for the record.

The trade standards become invalid automatically after the corresponding state standards are put into effect.

Article 15: Unified local requirements for safety and hygiene of industrial products applicable in provinces, autonomous regions and municipalities should be drawn up in the absence of similar state standards or trade standards. The items for local standards are defined by the administrative department responsible for standardisation under the provincial, autonomous regional and municipal people's governments.

Article 16: The administrative departments in charge of standardisation under the provincial, autonomous regional and municipal people's governments take care of planning, drafting, unified examination and approval, numbering and release of local standards and report to the administrative department in charge of standardisation under the State Council for the record.

If procedures for formulating local standards are provided for by the law, the relevant stipulations therein should be adhered to.

The local standards are annulled automatically after the corresponding state or trade standards are put into effect.

Article 17: In the absence of state, trade or local standards for products produced by enterprises, such standards should be mapped out so that enterprises will have regulations to go by. Enterprise standards are worked out by the enterprise association (procedures for working out standards for agricultural enterprises will be defined separately), and are reported for the record in accordance with the regulations laid down by provincial, autonomous regional and municipal people's governments.

Enterprises are encouraged to formulate enterprise standards stricter than existing corresponding state, trade or local standards.

Article 18. State and trade standards are divided into mandatory and recommended standards.

The following standards are mandatory ones:

(i) Standards for medicines, food hygiene and medicines for animals;

(ii) Safety and hygiene standards for products, their production, storage, transport and use; safety and hygiene standards for labour; and safety standards for transport;

(iii) Quality, safety and hygiene standards for engineering constructions and standards for other engineering constructions which should be brought under state control;

(iv) Standards for discharging pollutants and quality standards for the environment;

(v) Important universal technical terms, symbols and code names, and methods of drafting;

(vi) Standards for universal procedures for testing and examination;

(vii) Interchangeability and co-ordination standards;

(viii) Quality standards for important products which should be brought under state control.

The catalogue of important products which should be brought under state control is defined by the administrative department in charge of standardisation under the State Council in consultation with the relevant administrative departments under the State Council.

Standards other than mandatory ones are recommended standards.

Local safety and hygiene standards for industrial products formulated by provincial, autonomous regional and municipal people's governments are mandatory standards in their own administrative divisions.

Article 19: It is necessary to give effect to the role of trade associations, scientific and technological research institutes and academic organisations in working out standards.

The department responsible for drafting state, trade or local standards should set up a technical committee for standardisation grouping customers, production establishments, trade associations, scientific and technological research institutes, academic organisations and experts from relevant departments to draft standards and join other departments in carrying out a technical examination of the finalised draft. In the absence of a technical committee, relevant departments responsible for the technical work of standardisation should take responsibility for drafting standards and join other departments in carrying out an examination of the finalised draft.

It is necessary adequately to heed opinions of users and scientific and technological research institutes.

Article 20: After standards are put into effect, the department responsible for drafting the standards should re-examine the standards in due course in the light of scientific and technological progress and development in economic construction. Standards should be reviewed every five years at least.

Article 21: Unified regulations for giving code names and numbers to state, trade and local standards are laid down by the administrative department in charge of standardisation under the State Council.

The methods for giving code names and numbers to enterprise standards are worked out by the administrative department in charge of standardisation under the State Council in co-operation with the relevant administrative departments under the State Council.

Article 22: The methods for publishing and distributing standards are decided upon by the department working out the standards.

Chapter IV. Implementation of Standards and Supervision over their Implementation

Article 23: Units and individuals engaged in scientific research, production or management should strictly follow the

mandatory standards. Production, sale and import of products which are below the mandatory standards are forbidden.

Article 24: In abiding by state, trade, local or enterprise standards, enterprises should indicate the code name, number and name of the relevant standard on their products, or in instructions for use, or on packages.

Article 25: Technical requirements for export products are agreed upon by two signatories to the relevant contract.

Export commodities which are sold domestically must conform to relevant mandatory standards.

Article 26: In developing new products, improving existing products or introducing a technical innovation, enterprises are required to meet the demands of standardisation.

Article 27: The department in charge of standardisation under the State Council takes responsibility for setting up or authorising a relevant administrative department under the State Council to set up a special organisation to assess the quality of products and issue certificates to those products which are up to standard.

Article 28: The administrative department in charge of standardisation under the State Council exercises supervision over implementation of the standards nationwide. The relevant departments under the State Council exercise supervision over implementation of the standards in their own departments and their own trades. Provincial, autonomous regional and municipal administrative departments in charge of standardisation exercise supervision over implementation of the standards in their own administrative regions. Relevant departments under provincial, autonomous regional and municipal people's governments exercise supervision over implementation of the standards in their own departments and trades of their own administrative regions.

Urban and county administrative departments in charge of standardisation and other relative administrative departments exercise supervision over implementation of the standards in their administrative divisions as required by the provincial, autonomous regional and municipal people's governments.

Article 29: Where necessary administrative departments under the people's government at county level and above may set up an examining body, or authorise such bodies in other units, to check products against the standards and exercise supervision over implementation of other standards. Examining bodies should be rationally distributed and adequately use existing resources in setting up such bodies.

The administrative department in charge of standardisation under the State Council, in co-operation with other relevant administrative departments under the State Council, is responsible for planning and examination of state examining bodies and the administrative department in charge of standardisation under the provincial, autonomous regional and municipal people's governments, in co-operation with other relevant administrative departments at the provincial level, takes cares of planning and examination of local examining bodies.

Disputes over whether particular products conform to the standards are judged according to data provided by the examining body established as stipulated by the present article.

Article 30: Relevant administrative departments under the State Council may, where necessary, set up examining bodies to carry out examination in their trades or their own

departments, in accordance with relevant stipulations laid down by the government.

Article 31: State bodies, mass organisations, enterprises, institutions, and every citizen is entitled to inform against or expose offences against mandatory standards.

Chapter V. Legal Responsibility

Article 32: The department in charge of standardisation and other relevant administrative departments may, within their respective functions and powers, commit those enterprises which violate the "standardisation law" or relevant stipulations of the present regulations in any one of the following cases to correct their mistakes within a specified time, circulate a notice of criticism, or take administrative action against offenders.

(i) Enterprises that fail to work out in accordance with relevant regulations standards by which to carry out production.

(ii) Enterprises that fail to report standards for products to the authorities for the record as required.

(iii) Enterprises that fail to stick necessary marks on their products as required or stick marks which do not conform to the standards.

(iv) Enterprises that fail to meet the demands of standards in developing new products, improving existing products, or in introducing technical innovations.

(v) Enterprises that go against mandatory standards in scientific research, design and production.

Article 33: Enterprises whose products are below the mandatory standards should be ordered to stop production, and their products confiscated, destroyed under supervision, or subjected to technical treatment. A fine amounting to 20 to 50% of the value of the batch of products should be imposed on enterprises, and a fine of no more than 5,000 yuan on those who should be held responsible for the violation.

Those that market goods that are below the prescribed standard should be ordered to stop selling the goods, and recover within a definite time the goods which have been sold. The goods should be destroyed under supervision or subjected to necessary technical treatment and the illegal proceeds confiscated. A fine amounting to 10 to 20% of the value of the goods involved should be imposed on those involved. A fine of no more than 5,000 yuan should be imposed on those who should be held responsible for the violation.

Imported commodities below the mandatory standards should be sealed up, confiscated, destroyed under supervision, or subjected to necessary technical treatment. A fine amounting to 20 to 50% of the value of the imported commodities should be imposed. Administrative action should be taken against those involved and a fine of no more than 5,000 yuan imposed.

The order to stop production and administrative punishments, as stipulated in the present article, are decided upon by the relevant administrative departments. Other administrative punishments are decided upon by the administrative department in charge of standardisation and other industrial and commercial administrative departments in line with their functions and powers.

Article 34: The judicial bodies should investigate and decide on criminal responsibility of those who produce, sell or import

goods below mandatory standards entailing such serious consequences as to constitute a crime.

Article 35: Enterprises whose products fail to conform to the standards should be ordered by the department responsible for standardisation to stop selling the products though the products have been granted a certificate and use an authorised label, and to pay a fine of no more than twice their illegal proceeds. The certificate of serious offenders must be revoked.

Article 36: Enterprises selling unauthorised products and illegally using the authorised label should be ordered to stop selling the products and to pay a fine of no more than three times their illegal proceeds by the administrative department in charge of standardisation. A fine of no more than 5,000 yuan should be imposed on the responsible person.

Article 37: Those who are opposed to their products and illegal proceeds being confiscated and to the fine are allowed to apply to the authority immediately higher than the body that meted out the punishment for reconsideration within 15 days from the day they receive a relevant notice. Those who refuse to accept the second ruling are allowed to bring the case to the people's court within 15 days from the day they receive a relevant notice. They are also allowed to bring the case directly to the people's court within 15 days from the day they receive a notice relating to the punishment.

If those involved fail to apply for reconsideration or bring the case to the people's court within the specified time, or refuse to surrender their products and illegal proceeds or to pay the fine, the body that decided to mete out the punishment will administer the punishment subject to approval of the people's court.

Article 38: After being subjected to the punishment stipulated by the above articles 32 to 36, the offender is not exempt from responsibility to compensate others for their losses. Those who suffer losses are entitled to be compensated by the offender. A dispute concerning liability to pay compensation and damages may be referred to the relevant administrative department for settlement. The parties involved are also allowed to bring the case to the people's court.

Article 39: Those who make one of the following mistakes in performing their duties of supervision, examination, and management with respect to standardisation will receive administrative punishments by the relevant administrative department; if their violations are so serious as to constitute crimes, the judicial organ will investigate and apportion criminal responsibility:

(i) Make mistakes in work entailing losses in violation of the above regulations.

(ii) Forge or distort the data concerning examination.

(iii) Practise favouritism, engage in fraudulent practices, ask for or take bribes and abuse power.

Article 40: Income from inflicting a fine or confiscation are turned over to the treasury. The fine imposed on a unit is covered by its own funds and must not be included in costs. The fine imposed on individual offenders must not be paid by the state.

Chapter VI. Supplementary Articles

Article 41: Management regulations for standardising military supplies will be worked out separately by the State Council and the Central Military Commission.

Article 42: Management regulations for standardising engineering construction will be separately drawn up by the department in charge of engineering construction under the State Council in line with the "Standardisation Law" and relevant stipulations of the present regulations and put into effect subject to the State Council's approval.

Article 43: The present regulations are interpreted by the State Bureau of Technology Supervision.

Article 44: The present regulations are effective from the date of publication.
