

Measures for the Supervision and Spot Check of Agricultural Seed Quality

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Decree of the Ministry of Agriculture
(No. 50)

The "Measures for the Supervision and Spot Check of Agricultural Seed Quality", which were deliberated and adopted at the 3rd executive meeting of the Ministry of Agriculture on January 26, 2005, are hereby promulgated, and shall come into force on May 1, 2005.

Du Qinglin,
Minister
March 10, 2005

Measures for the Supervision and Spot Check of Agricultural Seed Quality

Chapter I General Provisions

Article 1 These Measures are formulated in accordance with the "Seed Law of the People's Republic of China" (hereinafter referred to as the Seed Law) and other relevant laws and administrative regulations so as to strengthen the supervision and administration of agricultural seed quality, maintain the order of seed market, and regulate the supervision and spot check of agricultural seed quality (hereinafter referred to as supervision and spot check).

Article 2 The "supervision and spot check" mentioned in these Measures shall mean the activity of the administrations of agriculture of the people's government at the county level or above in organizing relevant seed administration institutions and seed quality inspection institutions to conduct sampling and inspections on the produced and sold agricultural seeds, and promulgating and dealing with the result of spot checks in accordance with the provisions.

Article 3 The responsibility to carry out supervisions and spot checks and to deal with the results thereof shall remain with the administrations of agriculture. The responsibility for the sampling of the seeds in the process of spot check shall remain with the seed quality inspection institutions and (or) seed administration institutions entrusted by the administrations of agriculture (hereinafter referred to as the inspection undertaking institutions), while the responsibility for inspection of the samples in the process of spot check shall remain with the seed quality inspection institutions (hereinafter referred to as the inspection institutions).

Article 4 The samples taken in the process of supervision and spot check shall be provided by the enterprise subject to spot check gratuitously, and the quantity of samples drawn shall not exceed the reasonable need of the inspection.

Article 5 The enterprises subject to spot check shall actively cooperate in the supervision and spot check, and none of them may refuse the supervision or spot check without any justifiable reason.

Article 6 The expenses needed in supervision and spot check shall be included into the budget of the administrations of agriculture, and no fees may be charged against the enterprises subject to spot check.

Article 7 Where the administration of agriculture has conducted supervision and spot check over an enterprise, the administration of agriculture at the same or lower level shall not, within six months as of the sampling, conduct repeated supervision or spot check over the same crop seed of this enterprise.

Chapter II Determination of Plans and Schemes on Supervision and Spot Check

Article 8 The responsibility to formulate national supervision and spot check planning as well as the plans of supervisions and spot checks on the same level shall remain with the Ministry of Agriculture, while the administrative departments of agriculture of the local people's government at the county level or above shall formulate corresponding plans on supervision and spot check on the basis of the national planning and in light of the local actual situation.

The key targets of supervision and spot check shall be the important local agricultural seeds, seed users, and the agricultural seeds on which the relevant organizations have complained of their quality.

The administrations of agriculture may, in light of the actual situations, conduct supervision and spot check on a single or several indexes of the seed quality.

Article 9 The administration of agriculture shall assign supervision and spot check tasks to the inspection undertaking institutions according to the plans. Each inspection undertaking institution shall, according to the supervision and spot check tasks, formulate schemes for the spot checks, and submit them to the administration of agriculture for examination.

The schemes on spot checks shall be scientific, just and pragmatic.

A spot check scheme shall include such contents as sampling, basis of inspection, items to be inspected, basis for conclusion, name list of the enterprises subject to spot check, budgetary estimation of expenses, time of spot check and time for submitting the result, etc.

To determine the enterprises subject to spot check, one shall give prominence to the major ones, and the determined ones shall be of representative significance.

Article 10 An administration of agriculture shall, after adopting a spot check scheme, issue a "Notification for Seed Quality Supervision and Spot Check" to the inspection undertaking institution.

A "Notification for Seed Quality Supervision and Spot Check" is the testimonial of notifying the enterprise to accept supervision and spot check, and shall indicate the name of the enterprise subject to spot check, the category of the crop, the sampler, the entity, etc., while the inspection undertaking institution shall conduct sampling in the enterprise upon the strength of this notification, and deliver it to the enterprise for preservation.

Article 11 An inspection undertaking institution shall, after accepting the supervision and spot check task, organize relevant personnel to study the relevant laws, regulations, and provisions on supervision and spot check, and to get familiar with the scheme of supervision and spot check. It shall also propose reasonable solutions to the problems which might arise in the process of sampling and inspection, and make full preparations as well.

All relevant entities and individuals shall keep strict confidential for the enterprises subject to spot check and the crop categories as determined through supervision and spot check, as well as the inspection undertaking institution, the samplers, etc. Meanwhile, they are prohibited from, in any form or under any pretext, disclosing any of the aforementioned information to any enterprise subject to spot check in advance.

Chapter III Sampling

Article 12 There shall be at least two samplers as appointed by the inspection undertaking institution to the enterprise subject to spot check to implement the supervision and spot check task, among whom at least one shall hold a seed tester certificate.

Article 13 A sampler shall, prior to sampling, show the "Notification for Seed Quality Supervision and Spot Check" and his effective identity certificate to the enterprise subject to spot check, state the nature of supervision and spot check, the sampling method, items to be inspected, basis of inspection, basis for conclusion, etc.; he shall also know about the information of the enterprise subject to spot check on seed production and operation, and may, when necessary, require the enterprise subject to spot check to show relevant archival documents, so as to determine the varieties to be included in the spot check, the quantity of samples, etc.

Article 14 The samples needed in spot check shall be drawn from the commodity seeds sold on market or those stored in the warehouse for sale, and shall be guaranteed to be of representative significance.

In case any of the following circumstances arises, no sampling shall be conducted:

- (1) The enterprise subject to spot check has no agricultural seeds as listed in the "Notification for Seed Quality Supervision and Spot Check";
- (2) There is evidence to prove that seeds for spot check are not for sale;
- (3) There is evidence to prove that the produced seeds are for export, and there are clear stipulations in the export contract on the quality thereof.

Article 15 In case any of the following circumstances arises, the enterprise subject to spot check may refuse a sampling:

- (1) There is only one sampler or even no sampler;
- (2) None of the samplers holds a certificate;
- (3) The name of the samplers or their entity does not conform to the "Notification for Seed Quality Supervision and Spot Check";
- (4) The "Notification for Seed Quality Supervision and Spot Check" and the effective identity certificates, etc., which the samplers shall bring, are not complete;
- (5) The enterprise subject to spot check or the crop category does not conform to the "Notification for Seed Quality Supervision and Spot Check";
- (6) The administration of agriculture at a higher or the same level has already conducted supervision and spot check on the enterprise's same crop seed within the past six months.

Article 16 The sampling shall be conducted according to national standards, i.e., "Rules for Agricultural Seed Testing --- Sampling".

When a sampler seals a sample, there shall be anti-unsealing measures, so as to guarantee the authenticity of the sample.

Article 17 After sampling, the samplers shall fill out the sampling list, i.e., they shall clearly fill out the following contents in the sampling list item by item: name of the enterprise subject to spot check, correspondence address, telephone number, category of the sampled crop, name of the variety, month and year of production, seed batch weight, seed batch number, date of sampling, quantity sampled, applicable standards, inspected items, basis of inspection, basis for making conclusion on the result, etc. Any matter necessary to be particularly stated by the enterprise subject to spot check may be stated in the column of remarks.

Article 18 The sampling list shall be signed by the samplers and the person-in-charge or authorized person of the enterprise subject to spot check, and shall be affixed with the seal of the enterprise subject to spot check. The sampling list shall be in triplicate, with the inspection undertaking institution and the enterprise subject to spot check keeping one copy, respectively, and the third copy to be submitted to the administration of agriculture that assigned the task.

Article 19 Where an enterprise subject to spot check has no agricultural seeds as listed in the "Notification for Seed Quality Supervision and Spot Check", it shall issue a written testimonial, which shall be confirmed and signed by the samplers after they have consulted the relevant materials and inspected the relevant sites.

Article 20 Where an enterprise subject to spot check refuses to accept sampling or refuses to sign the sampling list and affix the enterprise seal on it without any justifiable reason, the samplers shall illustrate the consequences of refusing the supervision and spot check, and the measures of punishment, as well; when necessary, the administration of agriculture at the enterprise's locality may coordinate. If the enterprise still refuses to accept the spot check, the samplers shall timely report to the administration of agriculture that assigned the task, who shall punish the enterprise on the ground of refusing supervision and spot check.

Article 21 With respect to a sample taken from the market, if the distributor is not consistent with the producer indicated on the label, the inspection undertaking institution shall notify the seed producer in a timely manner, and the enterprise shall issue a written testimonial to confirm the producer of the sample. If the producer does not make a reply within 7 days as of receipt of the notice, the sampled seed shall be deemed as the product of the enterprise indicated on the label.

Chapter IV Inspections and Submission of Results

Article 22 An inspection institution that undertakes supervision, spot check and inspection shall conform to the relevant provisions of the Seed Law, have the corresponding conditions and capacity of test, and shall be pass the assessment of the administration of agriculture of the people's government at the provincial level or above.

The supervisions, spot checks and inspections as organized by the Ministry of Agriculture shall be undertaken by the inspection institutions that have passed the assessment of the Ministry of Agriculture.

Article 23 The inspection institution shall formulate and strictly implement the procedures for receipt, entry into warehouse, application for use, inspection, preservation and disposition of the samples used for supervision and spot check.

The samples used for supervision and spot check shall be appropriately preserved until three months after the result of supervision and spot check is promulgated.

Article 24 An inspection institution shall carry out tests according to national standards, i.e., "Rules for Agricultural Seed Testing", so as to ensure that the inspections are scientific, just and accurate.

The original records of inspection shall be truthfully written down in accordance with the provisions so as to be authentic, accurate and clear. The said records shall not be altered at will, instead, they shall be appropriately preserved for further reference.

Article 25 The inspection institution shall make a conclusion on the seed quality in accordance with Article 46 of the Seed Law, other relevant compulsory requirements on seed technology norms, and the allowable error as prescribed in the national standards, i.e., "Rules for Agricultural Seed Testing".

Article 26 After the end of inspection, the inspection institution shall serve in a timely manner a "Notification on the Result of Seed Quality Supervision and Spot Check" to the enterprise subject to spot check and the producer.

The inspection institution may, after some of the items have been inspected, notify the enterprise subject to spot check of the result of inspection in a timely manner.

Article 27 Where the enterprise subject to spot check or the producer has any dissent to the result of inspection, it shall, within 15 days as of receipt of the "Notification on the Result of Seed Quality Supervision and Spot Check" or the notification on single index of the result of inspection, produce a written report to the administration of agriculture that assigned the task, and send a copy to the inspection institution. Whichever enterprise or producer that fails to show its dissent within the time limit shall be deemed to have accepted the result of inspection.

Article 28 The administration of agriculture that assigned the task shall examine the dissent proposed by the enterprise concerned, and inform the enterprise of the settlement opinions. The said administration of agriculture shall, if necessary, make timely arrangements for re-inspection.

Article 29 The re-inspection shall usually be undertaken by the original inspection institution, and may also, in a particular circumstance, be undertaken by another inspection institution entrusted by the administration of agriculture that assigned the task.

Where the result of re-inspection is not consistent with that of the original inspection, the re-inspection expenses shall be borne by the original inspection institution.

Article 30 The re-inspection may, according to the original spot check scheme, and in light of the actual situation, be conducted on the basis of the original sample or by means of using a spare sample.

Such quality indexes as cleanliness, germinating rate and moisture, etc. shall be re-inspected by using a spare sample, while the authenticity and purity of the variety shall be re-examined on the basis of the original planting area, or a new authentication of planting may be made when any special circumstance so requires.

Article 31 The inspection institution shall, after accomplishing the inspection task, issue an inspection report in a timely manner, and serve it to the enterprise subject to spot check. The samples taken from the market shall be served to the producer at the same time.

The contents of the inspection report shall be complete, while the basis of inspection and the inspected items shall be consistent with the spot check scheme, with the data being accurate and conclusion being clear.

Article 32 The inspection undertaking institution shall, after accomplishing the spot check task, submit the result of supervision and spot check within the prescribed time to the administration of agriculture that assigned the task.

Article 33 The result of supervision and spot check mainly includes the following contents:

- (1) a summary of the supervision and spot check;
- (2) a table of consolidated results of inspection;
- (3) a name list of the enterprises attaining good quality from supervision and spot check, a name list of unqualified seed production and operation enterprises, and a name list of the enterprises refusing to accept supervision and spot check;
- (4) a statement on settling the dissents proposed by enterprises, and on re-inspection, etc.;
- (5) other information which needs to be stated.

Chapter V Disposal of the Results of Supervision and Spot Check

Article 34 The administration of agriculture that assigns a task shall consolidate the results in a timely manner, circularize them to the agricultural sector or the relevant enterprises, and also circularize them to the administration of agriculture at the locality of the enterprise subject to spot check in light of the severity of the situation.

The administration of agriculture at the provincial level or above may announce the result of supervision and spot check to the general public.

Article 35 The penalty upon an unqualified seed production and operation enterprise shall be imposed by the administration of agriculture that assigned the task or the administration of agriculture at the enterprise's locality in accordance with relevant provisions of the Seed Law.

The unqualified seed production and operation enterprise shall be treated as emphatic targets subject to the supervision and spot check of the next time. Any enterprise which is found from supervision and spot check to have unqualified seeds consecutively for twice shall be referred to the relevant certificate issuing organ for revocation of its seed production permit and seed operation permit, and be announced to the public.

Article 36 An unqualified seed production and operation enterprise shall be rectified in light of the following requirements:

- (1) Recovering the sold-out unqualified seeds within a time limit;
- (2) Immediately sealing up the unqualified batches of seeds, and disposing of them as non-seeds or reprocessing them, which may not be sold until they are found to be qualified upon inspection;
- (3) The enterprise's legal representative shall circularize the information on supervision and spot check to all employees, make rectification schemes, and implement the rectification measures;
- (4) Finding out the causes of the unqualified seeds, clarifying the quality liabilities, and punishing those who are held to be responsible;
- (5) Fully cleaning up the unchecked batches of seeds, and no qualified seeds may be sold;
- (6) Improving and developing its quality guaranty system, and submitting the rectification report in a timely manner;
- (7) Accepting the rectification and re-examination as organized by the administration of agriculture.

Article 37 Any enterprise refusing to accept lawful supervision and spot check shall be admonished, and ordered to make a correction; if it refuses to make a correction, the seeds under supervision and spot check shall be treated as unqualified, and the result shall be circularized by the administration of agriculture that assigned the task.

Chapter VI Administration of Supervision and Spot Check

Article 38 The personnel participating in supervision and spot check shall strictly abide by the laws and regulations of the State, enforce the law impartially, never seek personal gains, and keep strict confidential for the crop varieties under spot check, and the name list of enterprises, as well.

Article 39 An inspection institution shall truthfully report the result of inspection and the conclusion of inspection, instead of concealing the report or making false report, and shall be responsible for the inspection.

An inspection institution shall not, during the period of undertaking the supervision and spot check task, accept the entrustment of any enterprise subject to spot check for inspection of seed samples.

Article 40 An inspection undertaking institution shall conform to Article 56 of the Seed Law, and shall not engage in seed production or operation activities.

An inspection undertaking institution shall not utilize the result of supervision and spot check of seed quality to participate in non-gratuitous activities, or disclose the result of spot check or relevant materials, or issue to the enterprise a certificate of quality from spot check.

Article 41 Any inspection institution or any of the personnel participating in supervision and spot check shall, if forging or altering the inspection date, or issuing a false result of or conclusion from inspection, be punished in accordance with Articles 62 and 68 of the Seed Law.

Article 42 Where any inspection institution or any of the personnel participating in supervision and spot check violates Article 38 or Paragraph 2, Article 39, or Article 40, of these Measures, it/he shall be ordered by the administration of agriculture to make a correction within a time limit, and the seed quality inspection shall be temporarily suspended; if the consequence is severe, its/his relevant certificates shall be canceled, and its/his qualification for seed quality inspection shall be annulled; the relevant persons who are held to be liable shall be imposed administrative sanctions in accordance with the law, and be subject to criminal liabilities in accordance with the law if a crime is constituted.

Chapter VII Supplementary Provisions

Article 43 These Measures shall come into force on May 1, 2005.