

Regulation on the Administration of Cotton Quality Supervision

Promulgation date: 07-04-2006
Effective date: 07-04-2006
Department: STATE COUNCIL OF CHINA
Subject: AGRICULTURE, ANIMAL HUSBANDRY & FISHERY

Regulation on the Administration of Cotton Quality Supervision

(Promulgated by Order No. 314 of the State Council of the People's Republic of China on August 3, 2001, and Amended according to the "Decision of the State Council on Amending the Regulation on the Administration of Cotton Quality Supervision" promulgated on July 4, 2006)

Chapter I General Provisions

Article 1 The present Regulation is formulated for the purpose of strengthening the supervision and administration of cotton quality, maintaining the order of the cotton market, and protecting the lawful rights and interests of each party to cotton trading.

Article 2 When cotton business operators (including cotton purchasers, processors, sellers and storage undertakers, the same hereafter) engage in cotton business activities, and when cotton quality supervision institutions conduct supervision and administration over cotton quality, they must abide by the present Regulation.

Article 3 Where a cotton business operator intends to engage in cotton processing business activities, it shall have its qualification accredited in accordance with the relevant provisions of the state.

Cotton business operators shall establish and improve their internal cotton quality management rules, strictly implement position-based quality norms, quality responsibilities and corresponding assessment measures.

Article 4 The administrative department of quality supervision, inspection and quarantine of the State Council shall take charge of the national cotton quality supervision work, with the responsibilities to organize and implement such work remaining with its subordinate China Fiber Inspection Institute.

The quality supervision administrative department of the people's government of a province, autonomous region, or municipality directly under the Central Government shall take charge of the cotton quality supervision work within its own jurisdiction. At a place where a professional fiber inspection institution is established, the professional fiber inspection institution shall conduct supervision over the cotton quality within its jurisdictional division; at a place where no professional fiber inspection institution is established, the quality supervision administrative department shall conduct supervision over cotton quality within its jurisdictional division (when a professional fiber inspection institution and a local quality supervision administrative department are paratactically used, they shall be uniformly referred to as cotton quality supervision institutions).

Article 5 The local people's government at each level and its functionaries shall not cover up or connive the illegal acts concerning cotton quality within the region, or obstruct or interfere with the

cotton quality supervision institution's lawful investigation and punishment of the violations of the present Regulation in cotton purchase, processing, sale or storage undertaking.

Article 6 Any entity or individual may have the right to expose any illegal act concerning cotton quality.

Chapter II Obligations Concerning Cotton Quality

Article 7 A cotton business operator shall, for the sake of purchasing cotton, establish and improve quality inspection and acceptance rules for the purchase of cotton, as well as have the physical standards for cotton grades and the indispensable equipment and instruments for cotton quality inspection.

A cotton business operator shall, when purchasing cotton, determine the category, grade and quantity of the purchased cotton according to national standards and technical norms after excluding the foreign fibers and other noxious substances; if the purchased cotton goes beyond the national moisture standard, it shall carry out technical treatment such as airing it in the sun or drying it with machine, etc., so as to guarantee the cotton quality.

A cotton business operator shall place the purchased cotton by category or by grade.

Article 8 A cotton business operator must, if processing cotton, meet the following requirements:

- (1) It shall select and exclude the foreign fibers and other noxious substances in the cotton for processing according to national standards;
- (2) It shall grade and process cotton according to national standards, as well as pack the processed cotton and attach marks compatible to the cotton quality;
- (3) It shall pack the processed cotton and place it in batches according to national standards.

A cotton business operator shall not use a leather roller, cotton ginning machine, packaging machine or other cotton processing equipment, which is prohibited by the state by explicit order, to process cotton.

Article 9 A cotton business operator must, if selling cotton, meet the following requirements:

- (1) Each batch of cotton shall be attached with a quality voucher;
- (2) The cotton package or mark meets national standards;
- (3) The category, grade and weight of the cotton are consistent with the quality voucher or mark; and
- (4) The cotton having passed the accredited inspection shall be attached with an accredited inspection certificate, or shall, if it is state-reserved cotton, be affixed with an accredited inspection mark.

Article 10 A cotton business operator shall, if undertaking storage of state-reserved cotton, establish and improve the quality inspection and acceptance rules on the entry of cotton into or exit of cotton from the warehouse, and guarantee the category, grade and quantity of the state-reserved cotton entering into or exiting from the warehouse to be consistent with the accredited inspection certificate and the accredited inspection mark.

A cotton business operator shall, if undertaking the storage of state-reserved cotton, maintain and repair the storage undertaking facilities according to the provisions of the state, so as to guarantee the quality of the state-reserved cotton not to suffer from any quality variance caused by human elements.

A cotton business operator shall not put any cotton without passing accredited quality inspection into the warehouse as state-reserved cotton or take it out of the warehouse as state-reserved cotton.

A government authority or any of its functionaries shall not compel any cotton business operator to put any cotton without passing accredited quality inspection into the warehouse as state-reserved cotton or take it out of the warehouse as state-reserved cotton.

Article 11 A cotton business operator shall not, if purchasing, processing, selling or undertaking storage of cotton, forge, alter or imitate any cotton quality voucher or mark, or any accredited inspection certificate or accredited inspection mark.

Article 12 Cotton business operators are strictly prohibited from, in their business activities such as purchase, processing, sale or storage undertaking of cotton, adulterating any cotton, substituting any qualified cotton with inferior one or using any fake cotton as genuine one.

Chapter III Cotton Quality Supervision

Article 13 The state applies the accredited cotton quality inspection system.

The “term accredited cotton quality inspection” as mentioned in the preceding paragraph shall mean the activities through which a professional fiber inspection institution inspects the quality and quantity of cotton according to national standards and technical norms, and issues an accredited inspection certificate.

Article 14 A cotton business operator that sells cotton to a cotton consuming enterprise may, before either party to the transaction makes cotton transaction settlement, entrust a professional fiber inspection institution to make an accredited inspection of the cotton in bargain. After the accredited inspection, the professional fiber inspection institution shall issue an accredited cotton quality inspection certificate, which may be used as the basis of the cotton quality or quantity.

Article 15 The entry of state-reserved cotton into or the exit thereof from the warehouse must be subject to accredited cotton quality inspection; after the accredited inspection, the professional fiber inspection institution shall issue an accredited cotton quality inspection certificate, which shall be used as the basis for the state treasury to pay the expenses needed in storing the state-reserved cotton.

The state-reserved cotton having passed the accredited inspection shall be affixed by the professional fiber inspection institution with a accredited inspection mark uniformed prescribed by China Fiber Inspection Institute.

Article 16 A professional fiber inspection institution must, if making an accredited cotton quality inspection, implement the national standards as well as its inspection methods, technical norms and time requirements, so as to guarantee the inspection to be objective, impartial and timely. The accredited cotton quality inspection certificate issued by the professional fiber inspection institution shall truthfully and objectively reflect the quality and quantity of the cotton.

The contents of an accredited cotton quality inspection certificate shall include: the product name, the (entrusting) entity under inspection, the batch number, the number of packages, the inspection basis, the inspection result, the inspection entity, and the inspector, etc.

The format of an accredited cotton quality inspection certificate shall be prescribed by the administrative department of quality supervision, inspection and quarantine of the State Council.

Article 17 A professional fiber inspection institution shall not charge any fee when making an accredited cotton quality inspection, and the expenses needed in the inspection shall be listed as expenditures according to the relevant provisions of the state.

Article 18 The administrative department of quality supervision, inspection and quarantine of the State Council shall, throughout China, arrange for the sample supervisory inspections on the cotton that has passed accredited cotton quality inspection, while the quality supervision administrative department of the people's government of a province, autonomous region, or municipality directly under the Central Government shall, within its own jurisdiction, arrange for the sample supervisory inspections on the cotton that has passed accredited cotton quality inspection.

The contents of a sample supervisory inspection shall be: whether the accredited cotton quality inspection certificate and the accredited inspection mark are consistent with the physical product; and whether the accredited cotton quality inspection made by the professional fiber inspection institution is objective, impartial and timely.

The samples needed in a sample supervisory inspection shall be randomly drawn from the reserved samples that have passed the accredited inspection, and an inspection conclusion shall be made within 10 days as of the date when the sample is drawn.

Article 19 A cotton quality supervision institution may, with respect to the cotton beyond the accredited cotton quality inspection, conduct supervisory inspection on the spot of cotton purchase, processing, sale or storage undertaking.

The contents of a supervisory inspection shall be: whether the quality, quantity and package of the cotton meet the national standards; and whether the mark and quality voucher of the cotton are consistent with the physical product.

Article 20 A cotton quality supervision institution may exercise the following powers when, on the basis of the evidence or tip-off on any suspected illegal act in the process of its cotton quality supervisory inspection, investigating an act suspected to violate the present Regulation:

- (1) Making an on-site inspection on the place where any business activity suspected to violate the present Regulation is carried out;
- (2) Investigating the relevant persons of the cotton business operator to obtain information about the business activity suspected to violate the present Regulation;
- (3) Consulting and photocopying the contracts, documents, account books and other information on the cotton business operation; and
- (4) Sealing up or distraining the suspected adulterated cotton, inferior cotton used to substitute qualified one, fake cotton used as genuine one, or any other cotton with serious quality problems, as well as the equipment and instruments specially used to produce adulterated cotton, inferior cotton used to substitute qualified one, or fake cotton used as genuine one.

Article 21 A cotton quality supervision institution may, when required by a supervisory inspection, inspect the cotton quality. The samples needed in the inspection shall be randomly drawn from the purchased, processed, for-sale or reserved cotton according to the relevant national standards, and an inspection conclusion shall be made within 3 days as of drawing the sample for inspection.

No fee shall be charged for the inspection made according to the preceding paragraph, and the necessary inspection expenses shall be listed as expenditures according to the relevant provisions of the state.

Article 22 Where a cotton business operator or a cotton consuming enterprise has any objection to the result of an accredited cotton quality inspection or a cotton quality supervisory inspection made in accordance with the present Regulation, it may, within 5 days as of receipt of the inspection result, apply to the cotton quality supervision institution of the province, autonomous region, or municipality directly under the Central Government or China Fiber Inspection Institute for re-inspection; the cotton quality supervision institution of the province, autonomous region, or municipality directly under the Central Government or China Fiber Inspection Institute shall, within

7 days as of receipt of the application, make a re-inspection conclusion and inform the applicant. If the cotton business operator or the cotton consuming enterprise still has any objection to the re-inspection conclusion, it may bring a lawsuit to the people's court according to law.

Article 23 Any other fiber inspection institution recognized by the administrative department of quality supervision, inspection and quarantine of the State Council may be entrusted to engage in the cotton quality inspection business. The specific measures shall be formulated by the administrative department of quality supervision, inspection and quarantine of the State Council jointly with other relevant department of the State Council.

Chapter IV Penalty Provisions

Article 24 Where a cotton business operator that purchases cotton violates Paragraph 2 or 3 of Article 7 of the present Regulation by failing to comply with the national standards or technical norms to exclude foreign fibers and other noxious substances before determining the category, grade and quantity of the purchased cotton, or by failing to carry out technical treatment of the purchased cotton which goes beyond the national moisture standard, or by failing to classify and grade the purchased cotton for placement, it shall be ordered by the cotton quality supervision institution to make a correction, and may be fined up to CNY 30,000.

Article 25 Where a cotton business operator processes cotton in violation of Paragraph 1 of Article 8 of the present Regulation by failing to comply with the national standards to select and exclude foreign fibers and other noxious substances, or by failing to comply with the national standards to process the cotton by grade, to pack and mark the cotton, or by failing to comply with national standards to place the cotton by batches, it shall be ordered by the cotton quality supervision institution to make a correction, and may, on the basis of severity of the circumstance, be fined up to CNY 100,000. If the circumstances are serious, its cotton processing qualification shall be cancelled by the original accreditation organ.

Where a cotton business operator processes cotton in violation of Paragraph 2 of Article 8 of the present Regulation by using any cotton processing equipment prohibited by the state by explicit order, the said prohibited cotton processing equipment shall be confiscated by the cotton quality supervision institution and be destroyed under the supervision thereof, and the operator shall be fined twice up to ten times the actual value of the illegal equipment. If the circumstances are serious, its cotton processing qualification shall be cancelled by the original accreditation organ.

Article 26 Where a cotton business operator violates Article 9 of the present Regulation when selling cotton due to the fact that the for-sale cotton has no quality voucher, the package or mark does not meet the national standards, the quality voucher or the mark is not consistent with the physical product, the cotton passing the accredited inspection has no accredited inspection certificate or the state-reserved cotton is not affixed with an accredited inspection mark, it shall be ordered by the cotton quality supervision institution to make a correction, and may, on the basis of severity of the circumstance, be fined up to CNY 100,000.

Article 27 Where a cotton business operator violates Paragraph 1, 2 or 3 of Article 10 of the present Regulation when undertaking the storage of state-reserved cotton due to its failure to establish quality inspection and acceptance rules for entry of cotton into or exit thereof from the warehouse, or that its physical state-reserved cotton entering into or exiting from the warehouse is inconsistent with the accredited inspection certificate or mark, or that it fails to comply with the provisions of the state to maintain or repair the storage undertaking facilities and thus causes variance of the quality of the state-reserved cotton, or that it uses any cotton having failed the accredited inspection as state-reserved cotton for entry into or exit from the warehouse, it shall be ordered by the cotton quality supervision institution to make a correction, and may be fined up to CNY 100,000; if any heavy losses are caused, the person-in-charge held responsible and other persons held directly liable shall

be demoted or be given a severer disciplinary sanction; if any crime is constituted, he shall be subject to criminal liabilities according to law.

Article 28 Where a cotton business operator conceals, transfers or damages any article sealed up or distrained by the cotton quality supervision institution, it shall be fined by the cotton quality supervision institution at the amount of twice up to five times the value of the concealed, transferred or damaged cotton; if any crime is constituted, he shall be subject to criminal liabilities according to law.

Article 29 Where a cotton business operator violates Article 11 of the present Regulation by forging, altering or imitating any cotton quality voucher or mark, any accredited inspection certificate, or any accredited inspection mark, it shall be fined by the cotton quality supervision institution at the amount of CNY 50,000 up to CNY 100,000. If the circumstances are serious, the case shall be transferred to the administrative authority for industry and commerce for revocation of its business license; if any crime is constituted, he shall be subject to criminal liabilities according to law.

Article 30 Where a cotton business operator violates Article 12 of the present Regulation by, in the cotton business activities, adulterating cotton, substituting any qualified cotton with inferior one or using any fake cotton as genuine one, and if any crime is constituted, he shall be subject to criminal liabilities according to law; if no crime is constituted, the adulterated cotton, the inferior cotton used to substitute the qualified one, or the fake cotton used as genuine one and the illegal proceeds shall be confiscated by the cotton quality supervision institution, a fine of twice up to five times the value of the illegal cotton shall be given, and the case shall be transferred to the administrative authority for industry and commerce for revocation of the business license according to law.

Article 31 Where a professional fiber inspection institution violates Article 16 of the present Regulation by refusing to implement the national standards or its inspection methods, technical norms or time requirements, or by issuing an untrue accredited cotton quality inspection certificate, it shall be ordered by the administrative department of quality supervision, inspection and quarantine of the State Council or the local quality supervision administrative department to make a correction; the person-in-charge held responsible and other persons held directly liable shall be given the administrative sanction of demotion or dismissal from post according to law.

Article 32 Where a professional fiber inspection institution violates Article 17 of the present Regulation by charging any fee for accredited inspection, it shall be ordered by the administrative department of quality supervision, inspection and quarantine of the State Council or the local quality supervision administrative department to refund the charged accredited inspection fee; the person-in-charge held responsible and other persons held directly liable shall be given the administrative sanction of heavy demerit record or demotion according to law.

Article 33 Where a professional fiber inspection institution practices fraud by way of fabricating or issuing an accredited inspection certificate or by affixing any accredited inspection mark before making an accredited inspection, its person-in-charge held responsible and other persons held directly liable shall be given the administrative sanction of demotion or dismissal from post by the administrative department of quality supervision, inspection and quarantine of the State Council or the local quality supervision administrative department according to law. If any crime is constituted, he shall be subject to criminal liabilities according to law.

Article 34 Where a government authority or any of its functionaries violates Paragraph 4 of Article 10 of the present Regulation by compelling any cotton business operator to put any cotton having failed the accredited quality inspection into the warehouse as state-reserved cotton or take it out the warehouse as state-reserved cotton, the person-in-charge held responsible and other persons held directly liable shall be given the administrative sanction of demotion or removal from post according to law.

Article 35 Where a government authority or any of its functionaries covers up or connives any local illegal act concerning cotton quality, or obstructs or interferes with any cotton quality supervision institution from investigating according to law the acts in violation of the present Regulation, it/he shall be given the administrative sanction of demotion or removal from post according to law. If any crime is constituted, it/he shall be subject to criminal liabilities according to law.

Article 36 The value of cotton as prescribed in Article 28 and Article 30 of the present Regulation shall be calculated at the listed price of the illegally purchased, processed or sold cotton or on the basis of the settlement note; if there is no such listed price or settlement note, the said value shall be calculated at the market price of the same category of cotton.

Article 37 With respect to the administrative penalty of fine given in accordance with the present Regulation, the decision on the fine shall be separated from the collection thereof in accordance with the relevant laws and administrative regulations, and the collected fines must be fully turned in to the state treasury.

Chapter V Supplementary Provisions

Article 38 The administration of quality supervision over wool, fine hair, cocoon silk, and hemp fibers shall be implemented with reference to the present Regulation.

Article 39 The present Regulation shall come into force on the date of promulgation.