Regulations on Certification and Accreditation of the PRC

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Chapter I — General Provisions

Article 1 — These Regulations are formulated for the purposes of regulating certification and accreditation activities, improving the level of product quality and services, promoting economic and social development, and safeguarding public interests.

Article 2 — The term "certification" as used in these Regulations means the conformity assessment activity whereby a certification body certifies that products, services or management systems conform to the relevant technical specifications or the mandatory requirements of technical specifications. The term "accreditation" as used in these Regulations means the conformity assessment activity whereby an accreditation body confirms the competence of certification bodies, inspection bodies and laboratories to carry out specified conformity assessment activities.

Article 3 — The State shall, in respect of certification and accreditation activities, implement a unified supervision and administration system under which the certification and accreditation regulatory authority under the State Council shall be responsible for the unified administration, supervision and overall coordination of certification and accreditation activities nationwide. The local quality and technical supervision departments and the entry-exit inspection and quarantine authorities under the State Council (hereinafter collectively referred to as "local certification and accreditation regulatory authorities") shall, within their respective scopes of functions and duties, be responsible for the supervision and administration of certification and accreditation activities within their respective administrative regions in accordance with the law.

Article 4 — The State shall implement a unified certification and accreditation system. The State shall encourage and promote the mutual recognition of certification and accreditation in international trade.

Article 5 — Entities and individuals engaged in certification and accreditation activities shall comply with the principles of objectivity, independence, openness, fairness and good faith.

Chapter II — Certification Bodies

Article 6 — The establishment of a certification body shall be subject to the approval of the certification and accreditation regulatory authority under the State Council and shall meet the following conditions:

(1) Having a fixed place of business and necessary facilities;

(2) Having a management system that complies with the requirements of certification and accreditation;

(3) Having registered capital of not less than RMB 3 million; and

(4) Having ten or more full-time certification personnel with the appropriate qualifications.

Where a foreign-funded certification body is to be established, the conditions set forth in the preceding paragraph shall be met, and the provisions of the relevant laws and administrative regulations on foreign investment shall be complied with.

Article 7 — The establishment of a certification body by a foreign-funded enterprise shall be subject to the approval of the certification and accreditation regulatory authority under the State Council and shall comply with the following additional conditions:

(1) The foreign investor has engaged in certification activities in its home country for three years or more;

(2) The foreign investor has obtained accreditation from a national accreditation body recognized by its home country; and

(3) The foreign investor has not been subject to any punishment for violation of the relevant certification laws and regulations in the last three years.

Article 8 — The establishment of a representative office within the territory of China by a foreign certification body shall be filed with the certification and accreditation regulatory authority under the State Council for record.

Article 9 — Where an approved certification body intends to establish a branch office, the establishment shall be subject to the approval of the certification and accreditation regulatory authority under the State Council.

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Article 10 — A certification body shall engage in certification activities within the approved scope. No entity or individual may engage in certification activities without approval.

Article 11 — A certification body shall not have any interest relationship with an administrative authority, and shall not be related to the certification client in a manner that affects the objectivity and impartiality of certification activities, such as the sharing of assets or management personnel.

Chapter III — Certification

Article 12 — Certification shall be divided into compulsory certification and voluntary certification. The State shall implement a compulsory certification system for products that may affect national security, human health and safety, the life and health of animals and plants, the environment, or public safety. Products subject to compulsory certification shall be included in a catalogue for compulsory product certification (hereinafter referred to as the "compulsory product catalogue"), which shall be formulated, adjusted and published by the certification and accreditation regulatory authority under the State Council, in conjunction with the relevant departments under the State Council.

Article 13 — Products listed in the compulsory product catalogue shall not leave the factory, be sold, imported or used in business activities without certification and the application of the certification mark.

Article 14 — An applicant for compulsory product certification shall file an application with a certification body designated by the certification and accreditation regulatory authority under the State Council. The certification body shall complete the certification and issue a certificate to the applicant within the prescribed time limit.

Article 15 — Where the certification standards or technical specifications on which compulsory product certification is based are amended, and the holder of the certification certificate fails to meet the requirements of the amended standards or technical specifications, it shall comply with the amended requirements. Where the holder of the certification certificate still fails to meet the amended requirements after the time limit, the certification body shall revoke the certification certificate.

Article 16 — The certification body shall conduct follow-up inspections of the products for which certification certificates have been issued in accordance with the certification standards and technical specifications.

Article 17 — For products other than those listed in the compulsory product catalogue, enterprises and social organizations may, based on the needs of their production, operation and management, voluntarily apply to certification bodies for certification in respect of products, services and management systems. Where voluntary certification is conducted, the relevant standards or technical specifications that are higher than the national standards or industrial standards shall be adopted.

Article 18 — Where certification is conducted, the certification body shall sign a contract with the client, clearly defining the rights and obligations of both parties. The certification body shall complete the certification within the time limit stipulated in the contract or the time limit specified in the certification rules.

Article 19 — A certification body and its certification personnel shall provide certification services in a timely manner, ensure the objectivity and truthfulness of the certification results, and assume legal liability for the certification conclusions.

Article 20 — A certification body may not refuse to provide certification services to a client within its approved business scope, or impose unreasonable conditions on the client, without justified reasons. A certification body may not engage in any activity that is in conflict with the nature of its certification work.

Article 21 — A certification body shall establish a sound mechanism for tracking and handling complaints from certification clients.

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Article 22 — A certification body shall keep confidential the technical information and trade secrets of the certification client that come to its knowledge in the course of certification activities.

Chapter IV — Accreditation

Article 23 — The certification and accreditation regulatory authority under the State Council shall establish a national accreditation body. The national accreditation body shall be responsible for the accreditation of certification bodies, inspection bodies and laboratories. The national accreditation body shall ensure the objectivity, independence and impartiality of its accreditation activities.

Article 24 — The national accreditation body shall establish and improve its internal management system, formulate scientific and standardized accreditation procedures, and conduct accreditation activities in an open, fair and impartial manner.

Article 25 — The national accreditation body shall conduct an assessment of the management system and technical competence of an entity applying for accreditation, and upon confirming that the entity meets the accreditation conditions, grant accreditation and issue an accreditation certificate. The national accreditation body shall conduct periodic re-assessments and supervisory assessments of entities that have obtained accreditation, to verify whether the entities continue to meet the accreditation conditions.

Article 26 — The national accreditation body shall make public its accreditation criteria, accreditation procedures, charging standards and other such information. The national accreditation body shall accept the oversight of the certification and accreditation regulatory authority under the State Council and society at large.

Chapter V — Supervision and Administration

Article 27 — The certification and accreditation regulatory authority under the State Council shall supervise and administer certification bodies, inspection bodies and laboratories. The certification and accreditation regulatory authority under the State Council may conduct supervisory inspections of certification bodies, inspection bodies and laboratories to verify whether their activities comply with the provisions of these Regulations and other relevant laws and administrative regulations.

Article 28 — To protect national security, prevent fraudulent practices and protect the safety and health of human beings and the life and health of animals and plants, the State may, where necessary, implement a compulsory inspection system for products listed in the compulsory product catalogue.

Article 29 — The certification and accreditation regulatory authority may take samples of products in the market for testing and check whether they conform to the certification requirements. Where non-conformity is found, the certification body shall be required to take measures in accordance with the relevant provisions.

Article 30 — Entities and individuals shall have the right to report illegal acts in certification and accreditation activities to the certification and accreditation regulatory authorities. The certification and accreditation regulatory authorities shall promptly investigate and handle such reports.

Chapter VI — Legal Liability

Article 31 — Where an entity engages in certification activities without approval, the certification and accreditation regulatory authority under the State Council shall order it to cease such activities, confiscate the illegal gains and impose a fine of not less than RMB 100,000 but not more than RMB 500,000.

Article 32 — Where a certification body grants a certification certificate beyond its approved business scope, the certification and accreditation regulatory authority shall order it to take corrective action and impose a fine of not less than RMB 50,000 but not more than RMB 200,000. Where the circumstances are serious, the approval shall be revoked.

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Article 33 — Where a certification body adds, reduces or omits certification procedures, or conducts certification without conducting effective follow-up inspections of certified products, services or management systems, or fails to take timely measures such as suspending or revoking certification certificates for certified products, services or management systems that fail to meet the certification requirements in a timely manner, the certification and accreditation regulatory authority shall order it to take corrective action and impose a fine of not less than RMB 50,000 but not more than RMB 200,000. Where the circumstances are serious, the approval shall be revoked.

Article 34 — Where a certification body issues a false certification conclusion or the certification conclusion is seriously inconsistent with the facts, the certification and accreditation regulatory authority shall order it to take corrective action and impose a fine of not less than RMB 100,000 but not more than RMB 500,000. Where the circumstances are serious, the approval shall be revoked and the persons directly responsible shall be disqualified from the certification profession.

Article 35 — Where a product listed in the compulsory product catalogue leaves the factory, is sold, imported or used in business activities without certification, the certification and accreditation regulatory authority shall order the party concerned to take corrective action and impose a fine of not less than RMB 50,000 but not more than RMB 200,000. Where the illegal gains are involved, the illegal gains shall be confiscated.

Article 36 — Where the violation of the provisions of these Regulations constitutes a crime, criminal liability shall be pursued in accordance with the law.

Chapter VII — Supplementary Provisions

Article 37 — The specific measures for the administration of the certification of imported and exported food and cosmetics shall be separately formulated by the relevant departments under the State Council.

Article 38 — The terms "inspection body" and "laboratory" as used in these Regulations mean entities that are engaged in inspection, testing, calibration and other such activities.

Article 39 — These Regulations shall take effect as of November 1, 2003. The Regulations of the People's Republic of China on the Administration of Certification and Accreditation of Import and Export Commodities promulgated by the State Council on June 1, 1991 shall be repealed simultaneously.

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