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Standardization Law of the People's Republic of China (Revised Draft)

Call for public comments
by the National People's Congress

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CENELEC



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Chapter I General Provisions

Article 1 Standardization Law of the People's Republic of China (the "Law") is formulated for the purpose of promoting scientific and technological progress, improving the level of economic and social development, enhancing the quality of products and services, ensuring the safety of people's health and life and property, and strengthening standardization.

Article 2 For the purpose of the Law, standards (including standard samples) refer to technical requirements to be unified for the agricultural, industrial, service and social undertakings and other areas.

Standards include compulsory standards, recommended standards, association standards and enterprise standards.

Article 3 The tasks of standardization shall include the formulation of standards and organizations of and supervisions over the implementation of the standards.

The people's governments at or above the county level shall incorporate the standardization into their national economic and social development plans and include standardization into their budgets.

Article 4 The standardization administrative department under the State Council shall be in charge of the unified administration of standardization throughout the country. Competent administrative authorities under the State Council shall, in line with their respective functions, be in charge of standardization in their respective departments and trades.

The departments of standardization administration of the people's government at or above the county level shall be in charge of the unified administration of standardization within their respective administrative areas. Competent administrative authorities of the people's governments at the county level shall, in line with their respective functions, be in charge of standardization in their respective departments and trades within their respective administrative areas.

Article 5 The State Council shall establish coordination mechanisms for standardization, coordinate the development of major reforms on standardization, study major policies thereon, and coordinate the formulation and implementation of standards across departments and fields and involving in major disputes.

The local people's governments at or above the cities divided into districts may set up coordination mechanisms for standardization according to their work needs, to coordinate the important tasks of standardization in their administrative regions.

Article 6 The State encourages enterprises, social organizations/associations/federations, education and scientific and research institutions and others to carry out or participate in standardization efforts.

Article 7 The State encourages participation in international standardization activities, the formulation of international standards and adoption of international standards in combination of our situation, encourages standardization cooperation and exchanges and promotes the transformation and application of Chinese standards and foreign standards.

Article 8 The people's governments at all levels and competent administrative authorities will commend and award all units and individuals that have made marked results in standardization according to the related provisions of the State.

Chapter II Formulation of Standards

Article 9 Technical requirements for safeguarding human health and the safety of the person, state security, ecological environment security, and meeting fundamental needs of social and economic administration shall be subject to compulsory standards.

Standardization administrative department under the State Council shall be in charge of the initiation, numbering and disclosure of compulsory national standards. The standardization administrative department under the State Council shall examine whether the compulsory national standards to be formulated is in accordance with the preceding paragraph.

Competent administrative authorities under the State Council shall be in charge of the proposal, organization of the drafting, seeking for opinions and technical reviews of compulsory national standards according to their duties. The standardization administrative departments of the people's government in all provinces, autonomous regions and municipalities directly under the Central Government may propose to initiate compulsory national standards to standardization administrative department under the State Council, which will make decisions in concert with the competent administrative authorities under the State Council.

Compulsory national standards will be approved or authorized by the State Council for release.

Where any laws, administrative regulations and the State Council's decisions otherwise provide for compulsory standards, such provisions shall control.

Article 10 For technical requirements necessary to meet the basic requirements, for supporting compulsory national standards, and leading the relevant industries, recommended national standards can be formulated.

The recommended national standards shall be formulated by the standardization administrative department under the State Council.

Article 11 For the technical requirements that have are subject to no recommended national standards and need to be unified in a certain industry all over the country, industry standards (sectorial standards or ministry level standards) can be formulated. Industry standards will be formulated by the competent administrative authorities under the State Council and be submitted to the standardization administrative department under the State Council for filing. Industry standards fall under the scope of recommended standards.

Article 12 Local standards can be formulated to meet local natural conditions, customs and others. Local standards are recommended standards.

Local standards will be formulated by the standardization administrative departments of the people's governments in all provinces, autonomous regions and municipalities directly under the Central Government; The standardization administrative departments of the people's governments at cities and autonomous prefectures divided into districts may formulate,

according to their special needs, local standards governing their administrative areas with the approval of the standardization administrative departments of local provinces, autonomous regions and municipalities directly under the Central Government. Local standards will be reported to the standardization administrative department under the State Council and the competent administrative authorities under the State Council for record by standardization administrative departments of the people's governments in all provinces, autonomous regions and municipalities directly under the Central Government.

Article 13 Social organizations established according to the law may formulate association standards. Association standards will be formulated under the guidance and supervision of the standardization administrative department under the State Council in concert with the competent administrative authorities under the State Council.

Administrative measures for association standards will be formulated and released by the standardization administrative department under the State Council in concert with the competent administrative authorities under the State Council.

Article 14 Enterprises may, according to their own needs, formulate their own standards.

The State encourages enterprises to establish enterprise standards that are stricter than the related technical requirements in recommended standards.

Article 15 For standards needed for national economy and social development, priority shall be given for their initiation so as to determine the completion deadline.

Article 16 The following requirements shall be met for the formulation of standards:

- (1) conducive to the protection of personal health and the safety of life and property;
- (2) conducive to safeguarding national security;
- (3) conducive to promoting scientific progress and technological innovation;
- (4) beneficial to the improvement of economic, social and ecological benefits;
- (5) conducive to the coordination of standards;
- (6) beneficial to enhancement of the versatility and interchangeability of the product;
- (7) conducive to improvement of service level and quality;
- (8) conducive to facilitation of the production and life of the people;
- (9) conducive to promoting foreign economic and technological cooperation and foreign trade;
- and
- (10) support the construction of universalization of military and civilian standards and the sharing of resources.

It is not allowed to implement trade barriers, regional blockades and other acts of impeding the order of market competition by using standards.

Article 17 During the formulation of compulsory standards and recommended standards, investigation should be conducted with respect to the actual needs of the relevant administrative departments, enterprises, social organizations, consumers and education, scientific and research institutions and other aspects upon initiation, and take a variety of ways to solicit opinions on a convenient and effective basis.

Compulsory standards shall be made public and accessible to the public free of charge. The State promotes free introduction of standards to the community.

Article 18 The competent administrative departments responsible for the formulation of standards shall organize relevant parties to set up standardization technical committees, which will be in charge of the standards drafting and technical review. The composition of the standardization technical committees shall be broadly representative.

The drafting and technical review of compulsory standards may be undertaken by the standardization technical committees; however, the standardization technical committees shall shoulder the drafting and technical review of the recommended standards. If there is no standardization technical committees, an expert group may be established to undertake the drafting and technical review of relevant standards.

Article 19 The technical requirements in recommended national standards and industry standards may not be less stricter than those in compulsory national standards. The technical requirements of local standards, association standards and enterprise standards shall not be lower than the relevant technical requirements of compulsory standards.

Article 20 Rules governing the numbering of standards will be set up and released by the standardization administrative department under the State Council.

Chapter III Standards Implementation

Article 21 Compulsory standards shall be implemented. Products or services that do not meet the compulsory standards may not be produced, sold, imported or supplied.

Persons may adopt recommended standards on a voluntary basis.

Members of the social organizations may apply association standards as agreed, and enterprise standards will be adopted by enterprises that draw up standards at their own discretion; other enterprises may voluntarily adopt association standards or enterprise standards.

Article 22 In China, persons are required to disclose their own standards for products or services. The product standards implemented by the enterprise shall be made public through the enterprise standard information public service platform; enterprises are encouraged to release their applied services standards to the public.

Enterprises adopting compulsory standards, recommended standards, association standards or enterprise standards formulated by other enterprises shall make available to the public the numbers and names of the said standards. If an enterprise implements the enterprise standards formulated by itself, it shall also disclose the functional indexes of the products and services, as well as the performance indexes of the products as well as the corresponding inspection methods.

An enterprise shall organize production and operation activities in accordance with the standards, and the products produced and services provided shall meet the technical standards required by the standards made available by it.

Article 23 The technical requirements concerning the products and services export shall be subject to the contract.

Article 24 Enterprises are required to develop new products, improve products and conduct technological transformation in accordance with the standardization requirements as stipulated herein.

Article 25 The standardization administrative department under the State Council and the competent administrative authorities under the State Council, the standardization administrative departments of local people's governments at or above cities divided into districts shall have in place information feedback mechanism governing the standards implementation, so as to regularly assess and review standards established thereby. The review results shall serve as the basis for revising and abolishing relevant standards.

The State establishes a system for statistical analysis and reporting in connection with the implementation of compulsory standards.

Article 26 The people's governments at all levels shall support the development of standardization pilots to spread the concept of standardization, promote standardization experience, and promote the whole society to organize production, operation, management and services under various standards.

Chapter IV Supervision and Administration

Article 27 The standardization administrative departments of the people's governments at or above the county level and the competent administrative authorities shall supervise and check the formulation and implementation of standards in accordance with their statutory duties.

Article 28 Where the competent administrative authorities under the State Council have significant controversies during the formulation and implementation of standards, the standardization administrative department under the State Council will organize to negotiate, failing which, such controversies shall be solved under the standardization coordination mechanism under the State Council.

Article 29 Where the standardization administrative departments or the competent administrative authorities fail to number, evaluate or review the compulsory standards or recommended standards or record the recommended standards according hereto, the standardization administrative department under the State Council will require them to explain the situation and make corrections within a time limit.

If and in the event that social organizations or enterprises fail to number association standards or enterprise standards in accordance with the Law, the standardization administrative department under the State Council will require them to explain the situation and make corrections within a time limit.

Article 30 The standardization administrative departments and the competent administrative authorities may, according to work needs, have inspection and testing institutions to check whether any product conforms to standards.

Article 31 All units or individual have the right to report and complain any acts in violation hereof to the standardization administrative departments and the competent administrative authorities.

The standardization administrative departments and the competent administrative authorities shall publicize the telephone, mailbox or e-mail address and arrange personnel for the purpose of accepting and dealing the report and complaint. For the real name informants or complainants, the administrative department accepting their reports and complaints shall inform them of the handling results, keep confidential the informants, and reward the informants in accordance with the relevant provisions of the State.

Chapter V Legal Liabilities

Article 32 If any person produces, sells or imports products or provides services that do not conform to the compulsory standards, or where the products produced or the services provided by enterprise do not conform to the technical requirements of the standards made available, which cause losses to the loss of person or property, the said persons or enterprise shall assume civil liabilities in accordance with the law.

Article 33 The administrative departments under the law or administrative regulations shall investigate and punish according to the law the cases under which any products are produced, sold or imported or any services are provided not in consistency with compulsory standards; where there are no provisions in laws or administrative regulations, the standardization administrative departments will order them to make correction, give warnings, confiscate the products and stop the services, and impose a fine of less than RMB 500,000 according to the circumstances.

Article 34 In the case that enterprises did not make available their products standards to the public via the enterprise standard information public service or disclose the said standards affectedly, the standardization administrative departments will order them to make corrections and make the same available to the public through the enterprise standard information public service platform.

Article 35 The standardization administrative departments or the competent administrative authorities shall timely make corrections if they fail to formulate standards according to Paragraph 1 of Article 16 and Article 19 hereof; if they refuses to do so, the standardization administrative department under the State Council will announce and repeal relevant standards, and the appointing and dismissing authorities and supervisory organs will punish according to the law the heads held liable and persons directly responsible.

Where social organizations or enterprises fail to formulate standards according to Paragraph 1 of Article 16 and Article 19 hereof, the standardization administrative departments will order them to make corrections; otherwise, the standardization administrative department under the State Council will annul the related standards and make the same available to the public through the enterprise standard information public service platform.

Where any standardization administrative departments or competent administrative authorities violate Paragraph 2 of Article 16 hereof, they will be handled according to anti-unfair competition, anti-monopoly and other related laws and administrative regulations.

Article 36 Where the standardization administrative departments or the competent administrative authorities of the people's government at or above cities divided into districts fail to number the compulsory standards or recommended standards or record the recommended standards according to the Law and fail to make corrections within a definite time, the standardization administrative department under the State Council will revoke the numbers of the related standards or announce and repeal those unregistered standards, and the appointing and dismissing authorities and supervisory organs will punish according to the law the heads held liable and persons directly responsible.

In the event that the standardization administrative departments or the competent administrative authorities fail to evaluate or review the standards formulated thereby according hereto and fail to make corrections, the appointing and dismissing authorities and supervisory organs will punish according to the law the heads held liable and persons directly responsible.

Article 37 If and in the event that social organizations or enterprises fail to number association standards or enterprise standards in accordance with the Law and fail to make corrections within a definite time, the standardization administrative department under the State Council will revoke the number of related standards and make the same available to the public through the enterprise standard information public service platform.

Article 38 Where persons in charge of the standardization supervision, inspection, testing and management are involved in abuse of power, dereliction of duty, favoritism and malpractice, the appointing and dismissing authorities and supervisory organs will punish according to the law the heads held liable and persons directly responsible.

Article 39 Where any violation of the Law constitutes a crime, criminal liabilities will be investigated in accordance with the law.

Chapter VI Supplementary Provisions

Article 40 The measures for the formulation, implementation and supervision of the military standards will be formulated separately by the State Council and the Central Military Commission.

Article 41 The Law will come into force as of XXX.