

Measures for the Administration of Geographical Indications of Agricultural Products

Full text

Chapter I General Provisions

Article 1 For the purpose of regularizing the use of geographical indications of agricultural products, guaranteeing the quality and characteristics of agricultural products with geographical indications and improving the market competitiveness of agricultural products, these Measures are formulated in accordance with the relevant provisions of the Agriculture Law of the People's Republic of China and the Law of the People's Republic of China on the Quality Safety of Agricultural Products.

Article 2 The term "agricultural product" as mentioned in these Measures refers to primary products sourced from agriculture, namely, plants, animals, microorganisms and the products thereof obtained in agricultural activities. The term "geographical indications of agricultural products" as mentioned in these Measures refers to special agricultural product indications which are named by territorial names and are meant to tell that the indicated agricultural products are from a specific area and that the quality and major characteristics of the products mainly lie in the natural and ecological environment as well as cultural and historical factors of the area.

Article 3 The state applies the registration system to geographical indications of agricultural products. Registered geographical indications of agricultural products shall be under the protection of law.

Article 4 The Ministry of Agriculture shall be in charge of the registration of geographical indications of agricultural products of the whole nation, while the agricultural product quality safety center under it shall be in charge of the examination and expert appraisal of geographical indications of agricultural products. The administrative department of agriculture under the people's government at the provincial level shall be in charge of accepting and preliminarily examining the applications filed within this administrative region for the registration of geographical indications of agricultural products. The expert committee established by the Ministry of Agriculture for the appraisal of the registration of geographical indications of agricultural products shall be in charge of the expert appraisal work. The expert committee shall be composed of experts in crop and plant production, animal husbandry, fishery and agricultural product quality safety, etc.

Article 5 No fee may be charged for the registration of geographical indications of agricultural products. The administrative department of agriculture under the people's government at or above the county level shall bring the expenses for the administration of geographical indications of agricultural products into the annual budget of this department.

Article 6 The administrative department of agriculture under the people's government at or above the county level shall bring the protection and utilization of geographical indications of agricultural products

into the development planning of agriculture and rural economy of this administrative region and give support in terms of policy and funds. The state encourages social forces to assist push forward the development of geographical indications of agricultural products.

Chapter II Registration

Article 7 An agricultural product whose geographical indication is applied for registration shall meet the following requirements:

1. its name is composed of the name of the geographic area and the general name of the agricultural product;
2. the product has unique characteristics or special mode of production;
3. the quality and characteristic of the product mainly lie on the unique natural and ecological environment as well as cultural and historical factors;
4. the product has a limited producing area; and
5. the environment of its producing area and its quality satisfy the state's compulsory technical norms.

Article 8 Applicants for the registration of geographical indications of agricultural products shall be excellent professional cooperative economic organizations of farmers and industrial associations determined by the local people's government at or above the county level in accordance with the following conditions:

1. having the capability for supervising and administering the geographical indications of agricultural products and the products thereof;
2. having the capability for providing guidance for the production, processing and marketing of agricultural products with geographical indications; and
3. having the capability for bearing civil liabilities independently.

Article 9 An applicant satisfying the conditions for the registration of geographical indications of agricultural products may file a registration application with the administrative department of agriculture under the people's government at the provincial level and submit the following application material:

1. a registration application form;
2. a certificate on the qualification of the applicant;
3. a description on the typical characteristics of the product and a corresponding product quality appraisal report;
4. the environment conditions of the producing area of the product, the technical norms for production and the technical norms for product quality safety;
5. a document determining the territorial scope, and a distribution map of its producing area;
6. a straight sample or a sample picture of the product; and
7. other necessary descriptive or evidentiary material.

Article 10 The administrative department of agriculture under the provincial people's government shall,

within 45 workdays from the date when the application for the registration of a geographical indication of agricultural products is accepted, finish the preliminary examination on the application material and the on-site verification, and propose its preliminary examination opinion. If the application satisfies the relevant requirements, it shall file the application material together with the preliminary examination opinion with the agricultural product quality safety center under the Ministry of Agriculture; if not, it shall notify the applicant of its opinion and suggestion within 10 workdays from the date when the preliminary examination opinion comes out.

Article 11 The agricultural product quality safety center under the Ministry of Agriculture shall, within 20 workdays from the date when it receives the application material and the preliminary examination opinion, examine the application material, propose its examination opinion and organize experts to appraise. The expert appraisal work shall be undertaken by the expert committee for the appraisal of the registration of geographical indications of agricultural products. The expert committee shall work out appraisal conclusions independently and be responsible for these conclusions.

Article 12 If the expert committee is in favor of the application after appraisal, the agricultural product quality safety center under the Ministry of Agriculture shall publish an announcement on approving the application on behalf of the Ministry of Agriculture. If any entity or individual has any objection to the approval, it/he shall, within 20 days from the date of expiration of the announcement, present the objection to the agricultural product quality safety center under the Ministry of Agriculture. If no objection has been received, the Ministry of Agriculture shall make a decision on putting the geographical indication on registration, publish an announcement thereon, issue the Certificate of the People's Republic of China on the Registration of Geographical Indications of Agricultural Products, and publish the relevant technical norms and standards for the products concerned. If the expert committee is not in favor of the application after appraisal, the Ministry of Agriculture shall make a decision on disapproving the registration, and notify the applicant of the disapproval and reasons in written form.

Article 13 The registration certificate of a geographical indication of agricultural products shall be valid permanently. Under any of the following circumstances, a registration certificate holder shall file an application for modification in accordance with the prescribed procedure:

1. the registration certificate holder or the legal representative changes; or
2. the territorial scope or corresponding natural and ecological environment changes.

Article 14 A geographical indication of agricultural products shall be a combination of a public mark and the name of the territorial product. See the attached drawing for the basic patterns of public marks. The norms for the use of geographical indications of agricultural products shall be formulated and promulgated by the Ministry of Agriculture in another initiative.

Chapter III Use of Indications

Article 15 An entity or individual may apply to the registration certificate holder for using the registered geographical indication as long as it/he satisfies the following conditions:

1. the agricultural product produced or traded by it/him originates from the territorial scope indicated in

the registration certificate;

2. it/he has obtained the corresponding qualification for producing or trading the agricultural product concerned;
3. it/he is capable of conducting producing and trading activities in strict accordance with the prescribed quality and technical norms; and
4. it/he has the capacity for the market development and operation of the agricultural product concerned.

To use a geographical indication, an entity or individual shall conclude an agreement on the use of geographical indication with the registration certificate holder of the indication on the basis of production and operation year, and the agreement shall bear the quantity and scope of use as well as the relevant responsibilities and obligations. The registration certificate holder of a geographical indication of agricultural products may not charge fees for use against users of the indication.

Article 16 A user of a geographical indication of agricultural products shall be entitled to:

1. use the geographical indication on his/its products and the packages thereof; or
2. use the registered geographical indication to make publicity or participate in exhibitions or sales fairs.

Article 17 A user of a geographical indication of agricultural products shall be obliged to:

1. voluntarily accept the supervision and examination of the registration certificate holder of the indication;
2. guarantee the quality and credibility of the agricultural product covered by the indication; and
3. correctly and legally use the indication.

Chapter IV Supervision and Administration

Article 18 The administrative department of agriculture under the people's government at or above the county level shall strengthen the supervision and administration of geographical indications of agricultural products, and supervise and examine the territorial scope of agricultural products whose geographical indications have been registered and the use of such indications on a regular basis. Where an agricultural product whose geographical indication has been registered or a registration certificate holder fails to satisfy the requirements specified in Article 6 or 7, the Ministry of Agriculture shall write off the registration certificate, and publish an announcement thereon.

Article 19 The producers and operators of agricultural products with geographical indications shall establish a quality control tracing system. Holders of certificates on the registration of geographical indications of agricultural products and users of such indications shall be responsible for the quality and credibility of the agricultural products concerned.

Article 20 No entity or individual may forge or falsely use any geographical indications of agricultural products or any registration certificates.

Article 21 The state encourages entities and individuals to exercise social supervision over geographical indications of agricultural products.

Article 22 Where any worker of registration administration, supervision and examination of geographical indications of agricultural products abuses his authorized power, neglects his duty or engages in malpractice for personal gains, he shall be punished according to law; if he is suspected of committing any crime, he shall be transferred to the judicial organ and bear corresponding criminal liability.

Article 23 Where any entity or individual violates the provisions of these Measures, the administrative department of agriculture under the people's government at or above the county level shall punish it/him in accordance with the relevant provisions of the Law of the People's Republic of China on the Quality Safety of Agricultural Products.

Chapter V Supplementary Provisions

Article 24 The Ministry of Agriculture accepts applications for the registration of geographical indications of agricultural products from foreign countries, and protects them once they have been registered in the People's Republic of China. The specific measures shall be worked out in another initiative.

Article 25 These Measures shall come into force as of February 1st, 2008.

Attached Drawing: Basic Patterns of Public Marks (Omitted)