

**Voluntary Report** – Voluntary - Public Distribution

**Date:** March 24, 2023

**Report Number:** CH2023-0041

**Report Name:** Seed Variety Registration Open for Comment

**Country:** China - People's Republic of

**Post:** Beijing

**Report Category:** Planting Seeds, Trade Policy Monitoring, Sanitary/Phytosanitary/Food Safety, FAIRS Subject Report

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**Report Highlights:**

On March 9, 2023, the Ministry of Agriculture and Rural Affairs (MARA) published a Decision on Amending and Repealing Some Regulations (Draft for Comments) for seed variety registration. The Draft is open for public comment and includes amendments to the Administrative Measures for Non-Major Crop Variety Record. The deadline for comment submissions is April 9, 2023. Interested parties should submit comments by email to [fgslfc@163.com](mailto:fgslfc@163.com) or to the mailing address contained in this report.

## Summary

On March 9, 2023, MARA published the amendments to the Administrative Measures for Non-Major Crop Variety Record for public comment. Substantial changes include:

- 1) A DNA fingerprint test report is added to the documents required for variety record application (Article 13);
- 2) Variety record approval or revocation must be publicized for 15 days (Article 18 and 25);
- 3) It is clarified that changes in variety record are generally limited to changes in areas suitable for planting varieties and related cultivation technical points and precautions. Basic information such as variety name, applicant, breeder, etc., will not be approved for changes in principle (Article 22).

Comments can be provided either via email: [fgslfc@163.com](mailto:fgslfc@163.com), or by mail to: Legislative Coordination Division of the Department of Laws and Regulations, Ministry of Agriculture and Rural Affairs, No. 11 Nanli, Agricultural Exhibition Hall, Chaoyang District, Beijing (Postal Code: 100125)

This report provides an UNOFFICIAL translation of the Guideline. The newly added content is highlighted in red, and the deleted content is marked by strikethrough.

## Administrative Measures for Non-Major Crop Variety Record

### Chapter I General Provisions

**Article 1** These Measures are enacted in accordance with the *Seed Law of the People's Republic of China* (hereinafter referred to the "Seed Law") for the purposes of standardizing the management of non-major crop varieties, and scientifically, impartially and timely recording the non-major crop varieties.

**Article 2** These Measures shall apply to the record of non-major crops varieties within the territory of the People's Republic of China.

Where the laws, administrative regulations and the provisions of the Ministry of Agriculture provide otherwise with respect to the administration of the varieties of non-major crops, such provisions shall prevail.

**Article 3** Non-major crops mentioned in the Measures refer to the crops except the five major crops of rice, wheat, corn, cotton and soybeans.

**Article 4** For those varieties listed in the Non Major Corps Record Category, record is required prior to marketing.

The varieties which should have been recorded shall not be advertised, popularized or sold in the name of the recorded varieties.

**Article 5** The Ministry of Agriculture (MOA) is responsible for the record of non major corps varieties in the country, prepares and updates the Non Major Corps Record Catalogue as well as the Variety Record Guidelines, and establishes the National Data Platform for Non Major Crops Variety Record(hereinafter referred to as “Variety Record Platform”). The specific work shall be done by the National Agricultural Technical Promotion Service Center.

**Article 6** The agricultural departments of the people’s government at the provincial level are responsible for concrete implementation, supervision and administration of variety record, acceptance of the record applications, and review of the documents submitted by the applicants.

The agricultural departments of the people’s government at the provincial level or above shall take effective measures to strengthen the supervision and inspection on the recorded varieties, and fulfill the duties and responsibilities of supervision and governance over the variety applicants and testing organizations so as to ensure the safety and security of the consumers and variety use.

**Article 7** The applicant shall be responsible for the legitimacy and authenticity of the application documents and seed samples, ensure their traceability and express the willingness to be subject to supervision and inspection. Where any damages or losses were caused to the seed users or other seed production and operation entities, the applicant shall assume compensation liability in accordance with the law.

## **Chapter II Application, Acceptance and Examination**

**Article 8** Application for variety record is subject to territorial administration. A variety only needs to apply for record in a province.

**Article 9** Where two or more applicants apply for record for the same variety separately, the applicant made the application first shall take precedence over acceptance and processing; in case the applications are made at the same time, priority shall be given to the breeder.

**Article 10** The applicant may either apply for variety record through the Variety Record Platform with a real name or make an application for record in a writing form to the competent agricultural departments of the people’s government at the provincial level where the applicant resides.

**Article 11** Where any foreign applicant institutions and individuals without habitual residence or place of business in China apply for record of their varieties, a domestic seed enterprise with the status of a legal person shall be entrusted.

**Article 12** A variety applying for record shall meet following requirements:

- (i) Artificially selected and bred/discovered and improved;
- (ii) With distinctness, uniformity and stability;
- (iii) With a name complying with the *Rules on Naming Agricultural Plant Varieties*.

For those varieties with New Plant Variety Rights, the applicant shall obtain written consent from the right holder.

**Article 13** For the record of a newly-bred variety **applying for record**, the applicant shall submit following documents according to the requirements of Variety Record Guidelines:

- (i) Application Form;
- (ii) Description of the characteristics of variety, breeding process, etc;
- (iii) **DNA fingerprint test report** and test report of Distinctness, uniformity and stability (DUS);
- (iv) Color photographs of seeds, plants, fruits, etc;
- (v) Written consent of the right holder; and
- (vi) Letter of Commitment for the Legitimacy and Authenticity of the Variety and Application Materials.

~~**Article 14** For a variety that has been approved or sold prior to the enforcement of the Measures, the applicant may submit an Application Form, and relevant documentary materials to present its production, sales and application conditions and distinctness, uniformity and stability characteristics to apply for record.~~

**For varieties that have been registered or sold prior to the enforcement of these Measures, the application documents are simplified. Applicants can submit the application form and DNA fingerprint test report in accordance with the requirements of the variety record guidelines. The varieties that have been sold and planted also need to provide the sales invoices of the varieties before the enforcement of these Measures.**

**Article 14** Those who apply for variety record shall submit seed samples in accordance with the requirements of the record guidelines; if they fail to provide as required, the application shall be deemed withdrawn.

**Article 15** The competent agriculture departments of the people's government at the provincial level shall handle the applications in accordance with following circumstances:

- (i) For a variety with no need for record, the applicant shall be informed in time;
- (ii) Where there are errors in application documents, the applicant shall be permitted to make corrections on spot;
- (iii) Where the application documents are incomplete or fail to conform to the legal form, the applicant shall be informed of all items to be supplemented and corrected at once within 5 days or on spot; if the

applicant is not informed within the time limit, the application documents shall be deemed to have accepted as of receipt of it; and

(iv) Where the application documents are complete and conform to the legal form or supplemented as required, the application shall be accepted.

**Article 16** The competent agriculture departments of the people's government at the provincial level shall, within 20 working days, conduct written examination of the application documents submitted by the applicant, and if the application satisfies the requirements, shall report the examination comments to the MOA and inform the applicant to submit seed samples; or else, shall inform of the applicant in writing and give a statement of reasons.

~~The applicant, after receiving the notice, shall submit seed samples according to the requirements of the Variety Record Guidelines, or it shall be deemed to a withdrawal of the application.~~

**Article 17** Where the competent agriculture departments of the people's government at the provincial level fails to make a approval decision for examination within 20 working days, other 10 days may be offered and the reasons for extension shall be given to the applicant.

### **Chapter III Record and Announcement**

**Article 18** The MARA shall, within 20 working days, review the applications as of receipt of the review comments submitted by the competent agriculture departments of the people's government at the provincial level, ~~and if the application satisfies the requirements and the applicant has submitted seed samples as required,~~ **publicity will be made for those that satisfies the requirements and have completed the storage of seed samples. The publicity period is 15 working days. If there is no objection to the publicity or the objection is not established,** shall approve for record and issue a record certificate, or else, shall inform the applicant in writing of the refusal and reasons.

**Article 19** The record certificate includes a record number, the crop strains, variety name, applicant, breeder, variety source, suitable planting areas and seasons, etc.

**Article 20** The MOA will make an announcement of the recorded varieties concerning their record numbers, variety names, applicants, breeders, variety sources, characteristics, quality, resistance, yield, key points of cultivation techniques, suitable planting areas and seasons, etc.

The format of the record number shall be sequentially constituted by GPD + crop strains + (year) + 2-digit province code + 4-digit sequence No.

**Article 21** The variety name in the record certificate shall be the generic name of this variety. Change to the name without authorization in the course of production, sales and marketing shall be prohibited.

**Article 22** In case any changes are applied for the recorded variety, the applicant shall apply to the competent agriculture departments of the people's government at the provincial level where the application was first accepted for changes, and submit relevant supporting documents.

The competent agriculture departments of the people's government at the provincial level where the application was first accepted will review the application documents submitted by the applicant in a writing form, and if the application documents satisfy the requirements, shall report to the MOA for change and announcement; for this case, no other seed samples are needed.

Changes in recorded varieties mainly include suitable planting areas for varieties, as well as key points of cultivation techniques and precautions that need to be supplemented with changes in planting areas. Basic information such as variety name, applicant, breeder, etc. shall not be changed in principle.

#### **Chapter IV Supervision and Administration**

**Article 23** The MOA is pushing the construction of a variety record platform, striving for progressively achieving online acceptance of variety applications and online record of applied varieties as well as online release of variety record, changes, withdrawal, supervision, management, and other information on an unified government platform.

**Article 24** The MOA will carry out supervision and inspection over the variety record work of the competent agriculture departments of the people's government at the provincial level to timely correct any illegal acts, issue orders of correction in a time limit, and give punishment to anyone responsible in accordance with the law.

**Article 25** Where the application documents and seed samples of any recorded variety were found to be false, or the recorded variety has any serious defects that cannot be rectified or falls under any other circumstances, the competent agriculture departments of the people's government at the provincial level shall apply to the MOA for revocation of record of such variety.

For those varieties whose record certificates had been revoked, ~~MARA shall make an announcement to cease the popularization;~~ it shall make a public announcement. The publicity period is 15 working days. If there is no objection to the publicity or the objection is not established, a cancellation announcement will be issued, and the variety will stop promoting; for those whose application documents and seed samples are false, the illegal information on the applicant shall be recorded in the social credibility and integrity archives and announced to the public.

**Article 26** Where an applicant has fraudulent, bribery acts or other misconducts in the course of variety record, his or her application shall not be accepted within three (3) years.

**Article 27** Where the variety test and identification institutions issue false and inspection data or certificates, the competent agriculture departments of the people's government at the provincial level shall instruct them to correct in accordance with Article 72 of the *Seed Law*. The entity shall be fined not less than RMB 50,000 but not more than RMB 100,000, the supervisors or other person directly

responsible shall be fined not less than RMB 10,000 but not more than RMB 50,000, and the illegal gains, if any, shall be confiscated. In case of causing any damages or losses to the seed users or other seed production and operation entities, the violator shall undertake joint liability with the seed production and operation entity, and where circumstance are serious, the qualification of variety testing shall be lawfully cancelled.

**Article 28** Under any of the following circumstances the competent agriculture departments of the people's government at the county level shall, in accordance with Article 78 of the *Seed Law*, order to cease illegal acts, confiscate illegal gains and seeds, and impose a fine not less than RMB 20,000 but not more than RMB 200,000:

(i) to popularize the crop varieties that should have been recorded or sell such varieties in the name of recorded varieties;

(ii) to popularize the crop varieties whose record certificates have been revoked or sell such varieties in the name of recorded varieties.

**Article 29** The personnel responsible for variety record shall be devoted to their duties, and be impartial and honest. For the trade secrets obtained in the course of record, they shall keep in confidential, and for the seed samples, they shall keep properly and not provide to others without authorization or utilize them to seek illegal profits. In case of failing to perform the functions and duties by law, or practicing fraud or favoritism, punishment shall be given in accordance with the law, and from the date when the decision on the punishment is made, they shall not be allowed to engage in variety record work in five (5) years.

## **Chapter V Supplementary Provisions**

**Article 30** The variety adaptability and resistance identification, and distinctness, uniformity and stability testing may be either conducted by the applicant or other agencies authorized by the applicant.

**Article 31** These Measures will go into effect on May 1, 2017.

END UNOFFICIAL TRANSLATION

### **Attachments:**

No Attachments.