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Report Name: China Releases Draft Guidelines and Thresholds for the Determination of Essentially Derived Varieties

Country: China - People's Republic of

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Report Highlights:

On March 20, 2026, MARA released two documents for public comment related to its plant variety protection regulations. One document contains draft guidelines for determining Essentially Derived Varieties (EDVs), and the other document outlines thresholds for determining EDVs for ten crops including rice. The deadline for comment submissions for both draft documents is March 27, 2026.

FAS China provides this reporting and analysis as a service to U.S. farmers, ranchers, rural communities, and agribusinesses in support of a worldwide agricultural information system and a level playing field for U.S. agriculture.

Summary:

On March 20, 2026, the Ministry of Agriculture and Rural Affairs (MARA) released the draft [Guidelines for the Determination of Essentially Derived Varieties of Agricultural Plants](#) (hereafter “Guidelines”) and [Thresholds for Determining Essentially Derived Varieties of Ten Crops Including Rice](#) (hereafter “Thresholds”) for public comments. The deadline for comment submissions for both draft documents is March 27, 2026. Comments can be provided via email: dusceshi@sina.com.

Guidelines

According to MARA, the draft Guidelines are designed to implement the Seed Law of the People’s Republic of China and the Regulations on the Protection of New Plant Varieties of the People’s Republic of China, to ensure the effective implementation of the essentially derived varieties (EDV) system, to strengthen the protection of plant variety rights, and encourage original innovation in breeding. The document aims to standardize EDV identification and provide a basis for resolving disputes among breeders, regulators, and courts. It establishes a combined assessment approach, where technical testing (primarily DNA-based, supplemented by phenotypic analysis) is used alongside genetic similarity thresholds and supporting evidence such as breeding methods and lineage. The document further refines the determination process by detailing rules on evidence submission, technical assessment, and final decision-making, distinguishing between single-parent and multi-parent scenarios, and providing principles for resolving inconsistent results from different testing methods.

Thresholds

The Thresholds play a crucial role in EDV determination, as they offer actionable numerical criteria for making such assessments. The ten crops for which EDV thresholds are established in this document include rice, wheat, cotton (genus), rapeseed, peanut, Chinese cabbage, pepper (genus), millet, faba bean, and peach, with EDV determination thresholds ranging between 85 percent and 90 percent.

This report provides UNOFFICIAL translations of the draft Guidelines and Thresholds.

BEGIN TRANSLATION

Guidelines for the Determination of Essentially Derived Varieties of Agricultural Plants (Draft for Comments)

To standardize the identification and determination of essentially derived varieties (EDVs) and to provide guidance for breeders, agricultural and rural authorities, and judicial bodies in resolving EDV-related disputes, these Guidelines are hereby formulated.

I. Scope of Application

These Guidelines apply to the technical identification and determination of EDVs for relevant plant genera (species) included in the EDV implementation catalog issued by MARA.

II. Basic Principles

1. Implement comprehensive determination. Technical identification and determination of EDVs are relatively independent. Technical identification provides the basis for determination, which shall also take into account genetic similarity thresholds and, where necessary, factors such as breeding methods, selection processes, and pedigree relationships.
2. Maintain efficiency and timeliness. Molecular testing and phenotypic evaluation methods shall be applied scientifically, with priority given to convenient and efficient molecular techniques to ensure the timeliness and accuracy of technical identification.
3. Align with industry practice. Thresholds shall reflect both current breeding levels and future development trends and incorporate industry consensus. When genetic similarity between varieties is equal to or exceeds the threshold, the burden of proof shall shift.

III. Technical Identification

Technical identification refers to the assessment, conducted by qualified testing institutions in accordance with relevant technical standards or methods, of whether a suspected variety may have an essentially derived relationship with the initial variety.

1. Identification Methods: Molecular testing or phenotypic evaluation methods shall be adopted.
 - 1) Molecular testing. EDVs retain a obviously higher proportion of the genome of the initial variety than varieties developed through conventional crossing and may even retain nearly the entire genome. DNA-based techniques may be used to measure genetic similarity between varieties and assess the likelihood of an essentially derived relationship.
 - 2) Phenotypic evaluation. Except for trait differences caused by derivation, EDVs remain largely consistent with the initial variety in other characteristics. Phenotypic differences between varieties may be tested to assess the likelihood of an essentially derived relationship.

2. Method Selection

To ensure scientific and efficient technical identification, DNA-based molecular testing shall be prioritized. Where no molecular standards are available, phenotypic testing may be conducted upon agreement of both parties or with approval of the determining authority.

1. Marker types for high-throughput testing platforms shall be selected based on availability, efficiency, accuracy, and cost of DNA molecular markers, and procedures shall follow relevant national standards or agricultural and rural industry standards.
2. In the absence of technical standards for high-throughput markers, reference may be made to standards for SSR markers or other relevant technologies.
3. Where multiple identification methods apply to the same plant, the parties shall determine the method through consultation. If no agreement is reached, the relevant determining authority shall designate the method.
4. Phenotypic testing shall be conducted in accordance with the Test Guidelines for Distinctness, Uniformity and Stability (DUS) for the relevant plant genus (species), covering one growing cycle, to produce a variety description and a trait comparison report. If traits resulting from derivation are not included in the guidelines, testing institutions may conduct phenotypic evaluation using generally accepted industry methods.

IV. Principles for Determining Thresholds

A threshold refers to the critical value at which technical identification results trigger a determination that the suspected variety is an EDV.

1. When DNA molecular techniques are used, a genetic similarity threshold shall be established. If the genetic similarity between varieties is equal to or higher than the threshold, the burden of proof shifts. No threshold is set when phenotypic testing is used.
2. Thresholds shall be determined based on scientific algorithms, taking into account industry practice, development trends, and internationally accepted approaches.
3. Thresholds shall be established separately for different plant genera (species). Where different molecular marker methods are used for the same plant genus (species), thresholds shall be determined independently.
4. Thresholds shall be adjusted in a timely manner in line with advances in breeding methods and breeding levels to ensure consistency with the development of the seed industry.

V. Determination Procedures

Determination refers to the final conclusion made by breeders, agricultural and rural authorities, or judicial bodies as to whether a suspected variety constitutes an EDV in the course of resolving disputes.

1. Submission of Evidence

The holder of rights to the initial variety bears the primary burden of proof in EDV disputes. The rights holder or its authorized agent shall submit relevant information on both the initial variety and the suspected variety, including but not limited to proof of plant variety rights for the initial variety, evidence of commercialization of the suspected variety, and technical identification reports issued by qualified institutions. Where necessary, both parties shall also submit evidence on breeding methods, selection processes, pedigree relationships, or other information demonstrating the origin of the variety.

2. Determination Rules

Varieties derived from a single parent using methods such as genetic modification, mutagenesis, natural mutation, or gene editing may, in principle, be determined as EDVs. For varieties derived from multiple parents, determinations shall be made based on technical identification results and thresholds, and, where necessary, additional factors such as breeding methods, selection processes, and pedigree relationships.

1) When molecular methods are used, if the genetic similarity between the suspected variety and the initial variety is below the threshold, it shall be determined not to be an EDV. If the similarity is equal to or above the threshold, it shall be determined to be an EDV. If the opposing party disputes the determination, they bear the burden of proof and may submit evidence such as breeding methods, selection processes, or pedigree relationships. If the evidence demonstrates that their variety was not derived from the initial variety, it shall be determined not to be an EDV. If no evidence is provided, or the evidence fails to prove that the variety is not an EDV, the variety shall be determined to be an EDV.

2) When phenotypic testing methods are used, the differences between the two varieties should be evaluated in combination with factors such as breeding methods, selection processes, and pedigree relationships. If all differing traits are caused by derivation, the variety shall be determined to be an EDV; otherwise, it shall be determined not to be an EDV. Any party disputing the determination shall bear the burden of proof.

3) If different molecular testing methods or different trait testing methods lead to inconsistent determination results, a final determination shall be made by comprehensively considering factors such as breeding methods, selection processes, and pedigree relationships.

VI. Supplementary Provisions

1. “Derivation” refers to the use of breeding methods likely to produce EDVs, including natural mutation, induced mutation, systematic selection, repeated backcrossing, genetic modification, and gene editing.
2. Determination thresholds shall be issued separately by the Office for the Protection of New Plant Varieties under the Ministry of Agriculture and Rural Affairs.
3. Parties are encouraged to resolve disputes through mutual consultation. If consultation fails, disputes may be resolved through administrative mediation, arbitration, or litigation.
4. In administrative mediation, the determining authority for EDVs shall be the agricultural and rural authorities of people’s governments at or above the county level. In litigation, the determining authority shall be the relevant judicial bodies.
5. In cases involving disputes over technical identification or complex matters during mediation or litigation, experts from the EDV expert panel may provide professional opinions.
6. These Guidelines shall come into effect on [XX Month XX, XXXX].

Thresholds for Determining Essentially Derived Varieties of Ten Crops Including Rice

No.	Crops		Molecular Testing Standard	Thresholds
1	Rice		Identification of Rice Varieties and Their Essentially Derived Varieties — MNP Marker Method (NY/T 4459-2025)	90 percent
			Technical Rules for the Identification of Rice Varieties — SSR Marker Method (NY/T 1433-2014)	88 percent
2	Wheat		Identification of Wheat Varieties and Their Essentially Derived Varieties — MNP Marker Method (NY/T 4912-2025)	90 percent
			Technical Rules for the Identification of Wheat Varieties — SSR Marker Method (NY/T 2470-2013)	90 percent
3	Cotton (genus)		Technical Rules for the Identification of Upland Cotton Varieties — SSR Molecular Marker Method (NY/T 2469-2013)	90 percent
4	Rapeseed	Cabbage-type Rapeseed	Technical Rules for the Identification of Cabbage-type Rapeseed Varieties — SSR Molecular Marker Method (NY/T 2468-2013)	85 percent
		Chinese cabbage-type Rapeseed	Identification of Chinese Cabbage-type Rapeseed Varieties — SSR Molecular Marker Method (NY/T 4496-2025)	85 percent
		Mustard-type Rapeseed	Identification of Mustard -type Rapeseed Varieties — SSR Molecular Marker Method (NY/T 4909-2025)	85 percent
5	Peanut		Identification of Peanut Varieties — SSR Molecular Marker Method	90 percent
6	Chinese Cabbage		Identification of Chinese Cabbage Varieties and Their Essentially Derived Varieties— MNP Marker Method (NY/T 4914-2025)	85 percent
7	Pepper (genus)		Identification of Pepper Varieties and Their Essentially Derived Varieties— MNP Marker Method (NY/T 4915-2025)	90 percent
8	Millet		Plant Variety Identification — MNP Marker Method (GB/T 38551-2020)	90 percent
9	Faba bean		《蚕豆品种真实性鉴定 SSR 分子标记法》 (NY/T 3756-2020)	85 percent

10	Peach	《桃品种鉴定 SSR 分子标记法》 (NY/T 3642-2020)	85 percent
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END TRANSLATION

Attachments:

No Attachments.