Regulations on the Protection of Geographical Indication Products

(Draft for comments)

Chapter 1 General Provisions

 Article 1 In order to effectively protect China's geographical indication products, regulate the use of geographical indication product names and geographical indication special signs, and ensure the quality and characteristics of geographical indication products, in accordance with the "Civil Code of the People's Republic of China", "Trademark Law of the People's Republic of China" and " These regulations are formulated in accordance with the Product Quality Law of the People's Republic of China, the Standardization Law of the People's Republic of China, the Anti-Unfair Competition Law of the People's Republic of China, and other relevant regulations.

Article 2 Geographical indication products as mentioned in these regulations refer to products produced in a specific region and whose quality, reputation or other characteristics essentially depend on the natural and human factors of the place of origin. Geographical indication products include:

(1) Planting and breeding products from this region.

(2) Products whose raw materials all come from this region or partially come from other regions and are produced and processed in this region according to specific techniques.

Article 3 Geographical indication products should have authenticity, regionality, specificity and relevance.

Authenticity means that the name of a geographical indication product has been used continuously for a long time and has a reputation that is generally recognized by the public. Regionality means that all or the main production links of geographical indication products should occur within a limited geographical scope. Specificity means that the product has obvious quality features, specific reputation or other characteristics. Relevance means that the specificity and reputation of a product are determined by the natural and human factors of a specific region.

Article 4 These regulations apply to the protection application, review and recognition, cancellation and change of geographical indication products, as well as the use and management of special marks.

The fifth The CNIPA is responsible for the management and protection of geographical indication products and special indications nationwide; it uniformly accepts and examines applications for the protection of geographical indication products and identifies geographical indication products in accordance with the law.

Local intellectual property management departments are responsible for the management and protection of geographical indication products and special signs within their respective administrative regions.

Article 6 The protection of geographical indication products follows the principles of voluntary application, acceptance and approval disclosure.

The principle of good faith shall be followed when applying for geographical indication product protection and using geographical indication product names and special marks.

Article 7 If a geographical indication product is protected, the geographical indication product name and special mark shall be used in a standardized manner.

The name of a geographical indication product can be a combination of a name with a geographical indication function and a common name that reflects the true attributes of the product, or it can be a conventional name with a long history of use.

Article 8 In any of the following circumstances, geographical indication product protection will not be granted:

(1) The product or product name violates the law, violates public order and good customs, or harms public interests;

(2) The product name is only the common name of the product;

(3) The product name is a registered trademark or an unregistered well-known trademark of others, misleading the public;

(4) The product name is the same as the name of a product that has been protected by a geographical indication, causing the public to misunderstand the geographical origin of the product;

(5) The product name is the same as the nationally approved plant variety or animal breeding name, causing the public to misunderstand the geographical origin of the product;

(6) Products that violate safety, health, and environmental protection requirements and may cause harm to the environment, ecology, and resources.

Chapter 2 Application and Acceptance

Article 9 Applications for the protection of geographical indication products shall be submitted by the local people's government at or above the county level, or the representative social groups and protection application agencies designated by them (hereinafter referred to as the applicants).

Article 10 If the origin of the product applied for protection is within the county area, the people's government at or above the county level shall propose the scope of the origin; if it crosses the county area, the common superior local people's government shall put forward the suggestion on the scope of the origin; if it crosses the scope of prefectures and cities, , the relevant provincial people’s governments will propose suggestions on the scope of production areas.

Article 11 Applications for the protection of geographical indication products shall be submitted to the local intellectual property management department at or above the county level.

Article 12 The provincial intellectual property management department is responsible for providing preliminary review opinions on the application for protection of geographical indication products to be declared, and reporting relevant documents and materials to the CNIPA.

Article 13 Applicants should submit the following information:

(1) Relevant local people’s governments’ suggestions on delimiting the origin range of geographical indication products;

(2) Documents concerning the establishment of application and protection mechanisms by local people’s governments;

(3) Application materials for geographical indication products, including:

1. Application form for geographical indication product protection;

2. Geographical indication product protection requirements, including product name, product category; applicant organization information; scope of origin; product description; quality requirements, including physical, chemical, sensory and other quality characteristics of the product, specific production steps of the product within the scope of origin, and other aspects of the product Characteristics; explanation of the geographical characteristics of the place of origin and their correlation with product quality characteristics, including the physical, chemical, sensory and other quality characteristics of the product and their relationship with the natural and human factors of the place of origin; local intellectual property management as a special mark use management agency Department information; testing agency information;

3. Technical standards for the geographical indication products to be applied for protection;

4. Product inspection report;

(4) Preliminary review opinions issued by the provincial intellectual property management department;

(5) Other documents that the CNIPA deems should be submitted.

Chapter 3 Review and Approval

Article 14 The CNIPA shall conduct formal examination of the applications received. If the application passes the examination, the CNIPA shall issue an acceptance announcement; if the application fails the examination, the applicant shall be notified in writing.

Article 15 The CNIPA shall establish a geographical indication product expert review committee to be responsible for the technical review of applications for geographical indication product protection.

Article 16 If relevant units or individuals have objections to the application, they may submit a request to the CNIPA within 2 months after the announcement , stating the reasons and attaching relevant evidence and materials.

Article 17 After receiving the objection request, the CNIPA shall promptly notify the applicant and submit relevant materials. Objections shall be resolved through negotiation between the two parties; or the CNIPA shall organize the parties to negotiate and resolve the objection. If the negotiation fails, the CNIPA shall organize an expert committee on geographical indication products to make a decision after deliberation.

If the objection is established, the application for protection of the geographical indication product shall be rejected, and the opponent and the applicant shall be notified in writing; if the objection is not established, the objection request shall be rejected, and the opponent and the applicant shall be notified in writing.

Article 18 The Expert Review Committee for Geographical Indication Products of the CNIPA shall conduct a technical review of applications that have no objections or have objections but the objections are not established. The technical review includes meeting review and necessary origin verification, and the applicant shall cooperate.

During the review process, if the CNIPA believes that the content of the application for geographical indication product protection needs explanation or correction, it may require the applicant to make explanations or corrections.

If the application passes the review, the CNIPA will issue a recognition announcement; if the review fails, the application for protection of the geographical indication product will be rejected and the applicant will be notified in writing.

Article 19 If the applicant is dissatisfied with the decision to reject the protection application, he may request a review from the CNIPA within thirty days from the date of receipt of the notice. The CNIPA will make a decision within two months from the date of receipt of the reexamination application and notify the applicant in writing.

If the applicant is dissatisfied with the review decision, he may file a lawsuit with the People's Court within six months from the date of receipt of the notice.

Chapter 4 Geographical Indication Protection System and Use of Special Indications

Article 20 The construction of protection systems such as the standard system, testing system and quality assurance system for geographical indication products shall be planned and implemented by the local people's government.

Article 21 After a geographical indication product is protected, the applicant shall cooperate in formulating the corresponding national standards, local standards, and group standards for the geographical indication product based on factors such as the scope of the product's origin, category, and popularity, and develop national standard samples.

Standards shall not change the mandatory provisions such as name, product type, origin range, quality characteristics, etc. in the protection requirements.

Article 22 The quality characteristics inspection agency for geographical indication products shall be determined by the provincial intellectual property management department and reported to the CNIPA for filing. The CNIPA will organize re-inspection when necessary.

Article 23 Producers within the origin of geographical indication products who use special marks shall apply to the intellectual property management department of the origin and submit the following information:

(1) Application form for use of special geographical indication marks;

(2) Verification report issued by the intellectual property management department of the place of origin.

After the above-mentioned application is reviewed and registered by the local provincial intellectual property management department, an announcement will be issued, and the producer can use the special mark of geographical indication on its products. The announcement shall be submitted to the CNIPA for filing.

Article 24 Legal users of special signs for geographical indications shall download basic pattern vectors from the official website of the CNIPA. The vector graphics of the special signs for geographical indications can be scaled according to the proportion, and the annotations should be clear and legible. The pattern shape, composition, text font, picture and text ratio, color value, etc. of the special signs must not be changed.

Article 25 Producers within the scope of production areas shall organize production in accordance with corresponding standards. Other units or individuals may not use protected geographical indication product names or special signs without authorization.

After a geographical indication product is protected, the applicant shall take measures to manage the use of geographical indication product names and special marks, product characteristics and quality, etc.

An annual reporting system is implemented for the protection of geographical indication products. Before the end of March each year, applicants must report to the CNIPA the status of geographical indication product protection in the previous year.

Article 26 Local intellectual property management departments are responsible for the daily supervision of the origin, name, quality characteristics, standard compliance, and use of special signs of protected geographical indication products within their respective administrative regions.

Provincial intellectual property management departments should regularly submit regulatory information on geographical indication products and special signs to the CNIPA. Supervisory information should include the output value of geographical indication products, coverage of the use of special signs for geographical indications, various standards involving geographical indication products, inspection and testing institutions, etc.

Article 27 The use of geographical indication product names or special signs as mentioned in these regulations refers to the use of geographical indication product names or special signs on products, product packaging or containers, and product transaction documents, or the use of geographical indication product names or special signs. Special marks are used in advertising, exhibitions and other commercial activities to identify the origin of products or protected geographical indication products.

Article 28 The intellectual property management department shall actively guide and promote the use of geographical indication products to serve local economic development.

Chapter 5 Changes and Cancellations

Article 29 If the protection requirements for geographical indication products change, a change application shall be submitted to the CNIPA.

(1) If the protection requirements are updated and improved, but the quality characteristics and product form are not changed, and the modification of the product name or origin range is not involved, the CNIPA shall organize the development of geographical indications after receiving the preliminary review opinions of the provincial intellectual property management department. The application for change in product protection requirements will be reviewed, and if the review is successful, a change announcement will be issued; if the review fails, the CNIPA shall notify the applicant in writing and clearly point out the existing problems.

(2) If the main contents such as the name, origin range, quality characteristics and product form of a geographical indication product are modified, the CNIPA shall organize a geographical indication product expert review committee to conduct a technical review after receiving the preliminary review opinions from the provincial intellectual property management department. If the application passes the review, a preliminary change announcement will be issued. If there is no objection after the announcement period of 2 months, the CNIPA shall issue a change announcement; if the application fails the review, the CNIPA shall notify the applicant in writing and clearly point out the existing problems.

Article 30 From the date when the CNIPA issues a recognition announcement, any unit or individual may request the CNIPA to revoke it and provide relevant evidence and materials:

(1) It is a common name in my country or has evolved into a common name;

(2) The product name violates the law, violates public order and good customs, or harms public interests;

(3) Products that violate safety, health, and environmental protection requirements and may cause harm to the environment, ecology, and resources;

(4) Obtaining protection by deception or other unfair means.

Article 31 If the revocation request does not specify the reasons for revocation, the CNIPA will not accept it and notify the requester in writing.

Article 32 The CNIPA shall examine the revocation request, make a decision and notify the parties in writing.

If the CNIPA decides to revoke the protection of geographical indication products, it will issue a revocation announcement.

If the party concerned is dissatisfied with the decision to revoke the decision, he may file a lawsuit with the People's Court within six months from the date of receipt of the notice.

Chapter 6 Protection and Supervision

Article 33 Anyone who commits the following acts shall be ordered by the department responsible for the law enforcement of geographical indications to immediately stop the illegal activities. If there is an illegal business amount, the illegal business amount shall be confiscated. If the circumstances are serious, a fine of not more than five times the illegal business amount and no more than ten years may be imposed. A fine of 10,000 yuan; if there is no illegal business volume or the illegal business volume is less than 50,000 yuan, a fine of less than 50,000 yuan may be imposed:

(1) Using the name of a geographical indication product without authorization;

(2) Using the name of the geographical indication product without complying with the requirements of geographical indication product standards and management regulations;

(3) Using or forging special signs without authorization;

(4) Use the protected geographical indication product name on the same or similar product that is not produced in this region, even if the true place of origin has been indicated, or a translated name is used, or it is accompanied by words such as "species", "type", "style" and "type" "Style" and other expressions;

(5) Using names or logos that are similar to special marks and are easily misleading, as well as text or pattern marks that may mislead consumers, causing consumers to mistake the product for a geographical indication product;

(6) Selling the above products.

If the product sold is unknown to one of items 1 to 5 of the preceding paragraph and the legal source and provider of the product can be explained, the department responsible for the enforcement of geographical indications shall order it to stop selling, confiscate and destroy the product.

Article 34 If a producer approved to use the special mark of a geographical indication fails to organize production according to corresponding standards, or fails to use the special mark on a protected geographical indication product within 2 years, the CNIPA will cancel its geographical indication. The use of special signs shall be registered, and the use of special signs of geographical indications shall be stopped and announced to the public.

Article 35 Producers of geographical indication products who violate relevant product quality and standards regulations shall be subject to administrative penalties in accordance with the Product Quality Law of the People's Republic of China, the Standardization Law of the People's Republic of China and other relevant laws.

Article 36: Persons engaged in the management and protection of geographical indication products and other personnel who perform public duties in accordance with the law have neglected their duties, abused their power, engaged in malpractice for personal gain, committed fraud, violated laws and disciplines in handling matters concerning the management and protection of geographical indication products, accepted property from the parties, and made improper gains. If there is any interest, sanctions shall be imposed in accordance with the law and disciplines; if a crime is constituted, criminal liability shall be investigated in accordance with the law.

Chapter 7 Supplementary Provisions

Article 37 Special matters concerning the application, review, use of special marks, supervision and management of foreign geographical indication products in the People's Republic of China shall be separately stipulated by the CNIPA.

Article 38 If a protected geographical indication product is used as a trade name in a company name , misleading the public and constituting an act of unfair competition, it shall be dealt with in accordance with the Anti-Unfair Competition Law of the People's Republic of China.

Article 39 These regulations shall come into effect on the day of the year. The "Regulations on the Protection of Geographical Indication Products" issued by the former General Administration of Quality Supervision, Inspection and Quarantine on July 15, 2005 No. 78 was abolished at the same time.