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REGULATIONS ON THE PROTECTION OF BASIC FARMLAND

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Chapter I General Provisions

Article 1 In order to implement special protection of the basic farmland and promote the development of agricultural production and the national economy, these Regulations are hereby formulated in accordance with provisions of the "Agriculture Law of the People's Republic of China" and the "Land Administration Law of the People's Republic of China".

Article 2 Basic farmland as referred to in these Regulations means cultivated land which is determined in accordance with the demand of the population for agricultural products, the needs of the national economy, as well as a forecast of the use of land for construction for a specified period of time, and which shall not be occupied for other uses for a long term, or within the specified protective period.

Protected areas of basic farmland as referred to in these Regulations mean areas delimited in accordance with the legal procedures for implementing the special protection of basic farmland.

Article 3 These Regulations shall apply to the delimitation, protection, supervision and administration of protected areas of basic farmland. In the absence of specific provisions in these Regulations, the "Land Administration Law of the People's Republic of China" and other relevant laws and regulations shall apply.

Article 4 With regard to the protection of basic farmland, the policy of overall planning, rational use, a combination of use and maintenance, and strict administration shall be carried out.

Article 5 The protection of basic farmland shall be included in the national economic and social development programs of local people's governments at county level and above, and, as an important component of the objectives for the leadership of the governments under the responsibility system within their respective terms of office, shall be implemented under the supervision of people's governments at a higher level.

Article 6 All units and individuals have the duty to protect basic farmland, and retain the right to disclose and report acts of illegal occupation, impairment of said basic farmland, or other acts in violation of these Regulations.

Article 7 The land administration department and the agricultural administration department of the State Council shall, according to these Regulations and the division of responsibilities specified by the State Council, be responsible for the protection and administration of basic farmland throughout the country.

Land administration departments and agricultural administration departments of local people's governments at county level and above shall, according to these Regulations and the division of responsibilities specified by the people's government at the corresponding level, be responsible for the protection and administration of basic farmland within their own administrative regions.

People's governments at township level shall be responsible for the protection and administration of basic farmland within their own administrative regions.

Article 8 The state shall reward units and individuals for remarkable achievements they have made in the work of basic farmland protection.

Chapter II Delimitation

Article 9 The land administration department and agricultural administration department of the State Council shall, in conjunction with other departments concerned, draft a national program for protected areas of basic farmland, and submit it to the State Council for approval. Land administration departments and agricultural administration departments of the people's governments at county level and above shall, in conjunction with other departments concerned, and according to the program for protected areas of basic farmland adopted by the people's government at a higher level, draft a program for protected areas of basic farmland for their own administrative regions and, upon the examination and approval by the people's government at the corresponding level, submit it to the people's government at a higher level for approval.

People's governments at township level shall, according to the program for protected areas of basic farmland adopted by the people's government at county level, draft a program for protected areas of basic farmland for their own administrative regions, and shall submit it to the people's government at county level for approval.

All adjustments required for the approved program for protected areas of basic farmland must be approved by the original examining and approving organ.

Article 10 The program for protected areas of basic farmland shall be based on the overall program for the use of land and the division of areas for investigation of the agricultural resources, and in harmony with programs of urban planning and of the construction of towns and villages.

Article 11 When drafting programs for protected areas of basic farmland, people's governments at various levels shall determine the targeted volume and the planned arrangement of farmland to be protected, and shall disseminate the programs in parts as related to next level.

Article 12 The following categories of cultivated land shall, in principle, be delimited into protected areas of basic farmland:

- (1) The production bases for cereals, cotton, edible oils and for famous, superior, specialty and new agricultural products, as determined by competent departments concerned of the State Council or people's governments at or above county level;
- (2) Farmland providing high and stable yields, cultivated land with perfected facilities for water conservancy and for water and soil conservation, and lands providing low to medium yields as a result of reclamation or transformation, or land being subject to implementation of a transformation plan;
- (3) Production bases providing vegetables to large and medium-sized cities; and
- (4) Land dedicated to agricultural scientific research, teaching experimentation.

Article 13 Cultivated land designated as protected areas of basic farmland are divided into the following two grades
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- (1) Cultivated land with excellent production conditions and high yield capacities which shall not be occupied for other uses for a long term is designated as first grade basic farmland; and
- (2) Cultivated land with good production conditions and relatively good yields which shall not be occupied for other uses within the specified period of the program is designated as second grade basic farmland.

Article 14 The work of designating protected areas of basic farmland shall be conducted on the basis of township (or town), and shall be organized and carried out by the land administration

departments of people's governments at county level together with agricultural administration departments at the same level.

People's governments at county level shall properly mark protected areas of farmland with appropriate protection signs and make related announcements. Land administration departments of people's governments at county level shall establish archives and submit a copy of it to agricultural administration departments at the same level. No organization or individual may damage or wantonly alter signs marking protected areas of basic farmland.

Following the designation of protected areas of basic farmland, people's government immediately above the county level shall organize checks and acceptance.

Article 15 With regard to designated protected areas of basic farmland, the original contractor's management rights shall not be freely altered.

Article 16 Technical rules and regulations for the designation of protected areas of basic farmland shall be formulated by the land administration department of the State Council together with the agricultural administration department of the State Council.

Chapter III Protection

Article 17 Once a protected area of basic farmland is designated, no unit or individual may alter or occupy said land without authorization. When selecting sites for important national construction projects related to energy, communications and water conservancy etc., and there is no way to avoid in fact a need to occupy cultivated land in protected areas of basic farmland, an application must be made in accordance with examination procedures and the limits of authority for examination and approval stipulated in the "Land Administration Law of the People's Republic of China" to the land administration department of people's government at or above county level, and following an appraisal and approval of agricultural administration department at the corresponding level, be submitted to the people's government at or above county level for approval.

Construction projects referred to in the preceding paragraph which are to occupy first-grade basic farmland not exceeding 500mu must be submitted to the governments of provinces, autonomous regions, or municipalities directly under the Central Government for approval, while those being to occupy over 500mu of first-grade basic farmland must be submitted to the State Council for approval.

Article 18 The establishment of development zones shall not occupy cultivated land in protected areas of basic farmland. However, in cases involving special circumstances necessitating such occupancy, relevant units, when applying for the establishment of a development zone, must append the opinions of the land administration and agricultural administration departments of people's government at or above the provincial level.

Article 19 When non-agricultural construction projects occupy, with approval, cultivated land in protected areas of basic farmland, related units or individuals shall be responsible for reclaiming wasteland equal to the occupied land in quantity and quality in accordance with the principle of "reclaiming all the amount of the occupied", in addition to paying taxes and fees in accordance with the provisions of the "Land Administration Law of the People's Republic of China" and other relevant administrative regulations. In the absence of appropriate conditions for reclamation, or when the reclaimed land fails to conform with requirements, the related unit or individual must pay or make up the reclamation fees for occupancy of land in protected areas of basic farmland to the department determined by the government of province, autonomous region or municipality directly under the Central Government in accordance with the provisions of the province, autonomous region or municipality directly under the Central Government. In cases of the occupancy of land dedicated to vegetable production in protected areas of basic farmland and where funds for development and construction of new land for that same purpose having been paid according the relevant regulations of the state, the reclamation fees shall be exempted. With regard to the large and medium-sized construction projects of energy, communications, water conservancy, defense and military industries

with the investment mainly from the state, which occupy cultivated land in protected areas of basic farmland, the reclamation fees may be exempted with the approval of the State Council.

Expenses for reclaiming land, as special funds for special use, shall be earmarked for reclaiming, constructing new basic farmland and improving low to medium yield farmland.

Reclamation, construction of new basic farmland and improvements to low and medium yield farmland shall be organized and implemented by the department designated by local people's governments at or above county level.

Article 20 The construction of cave dwellings and houses, tombs as well as excavating sand, quarrying and mining, or otherwise removing earth and dumping solid waste are prohibited in protected areas of basic farmland

It is prohibited to change the cultivated land in protected areas of basic farmland into non-cultivated land.

Article 21 Units and individuals are prohibited from allowing cultivated land to remain idle or in any other way wasting the land in protected areas of basic farmland. Where any cultivated land in protected areas of basic farmland to be occupied by development zones or by other non-agricultural construction projects which have completed formalities for examination and approval, is not to be used until one year later and can be used for cultivation and reaping in the same period, it shall continue to be cultivated by the collective or individual originally making cultivation of said farmland, or otherwise the construction unit shall organize the cultivation; where the construction project has not started within one year or more than one year, and the relevant cultivated land is left idle in that period, non-use fees shall be paid in accordance with regulations of the province, autonomous region or municipality directly under the Central Government; in cases when land is left idle for two consecutive years without the approval of the original examining and approving organ, the land-use rights of the occupying unit shall be withdrawn and the certificate for use of the land shall be canceled by the land administration department of the people's government at county level after receiving the approval of the people's government at the same level. In cases when individuals contracting for the management of cultivated land in protected areas of basic farmland are found to have allowed the land to remain idle, or have otherwise wasted same, the collective economic organization concerned shall withdraw their rights to contract for management.

Article 22 The unit or individual engaged in agricultural production on basic farmland shall maintain and enrich the soil. The state shall advocate and encourage agricultural workers to use organic fertilizers on basic farmland, and chemical fertilizers and pesticide in a rational way.

Article 23 People's governments at county level shall, in accordance with actual conditions, formulate measures for determining the classification and grading of the enrichment of cultivated lands in protected areas of basic farmland. The agricultural administration departments of the governments at county level together with the land administration departments of the governments at county level shall implement said measures by fixing the classification and grading of the enrichment of cultivated lands in protected areas of basic farmland and maintaining archives thereof.

Article 24 Collective economic organizations or villagers' committees in rural areas shall, periodically, or when the rights to contract for management are transferred, determine the grading of the enrichment of cultivated land in protected areas of basic farmland.

Article 25 The agricultural administration departments of local people's governments at county level and above shall gradually establish long-term fixed networks and stations to monitor the enrichment of cultivated lands and the effectiveness of using fertilizers, periodically submit reports regarding changing conditions related to the enrichment of cultivated land in protected areas of basic farmland and put forward local protective measures to the people's government at the corresponding level, and shall provide farmers and agricultural workers with services guiding the use of fertilizers.

Article 26 The agricultural administration departments of people's governments at county level and above shall, together with the environmental protection administration departments at the corresponding level, conduct monitoring and make appraisal in relation to environmental pollution of cultivated land in protected areas of basic farmland, and periodically submit reports on the quality and developing tendency of the environment to people's government at the corresponding level.

Article 27 In cases when special circumstances necessitate the occupancy of cultivated lands in protected areas of basic farmland for key national construction projects, provisions of the state concerning the administration of environmental protection related to construction projects shall be complied with. Reports on the environmental impact of construction projects should include a plan for the environmental protection of basic farmland; the department in charge of the administration of environmental protection shall obtain a approval of said plan from the agricultural administration department at the corresponding level before approving the construction project.

Article 28 Fertilizers, and urban refuse and sludge as fertilizer supplied to protected areas of basic farmland must conform with all criteria set by the state.

Article 29 In cases involving accidents or other incidents which cause or threaten to cause environmental pollution of basic farmland, the person concerned must immediately implement appropriate measures, submit a report to the local department in charge of the administration of environmental protection and the agricultural administration department, and shall accept investigation and decision.

Chapter IV Supervision and Administration

Article 30 Provided that protected areas of basic farmland have been established, local people's governments at or above county level shall sign a letter of responsibility for the protection of basic farmland with the people's government at a lower level. The people's governments at township level shall sign a similar letter with respective collective economic organizations or villagers' committees in rural areas.

Letters of responsibility for the protection of basic farmland shall include descriptions of the following items:

- (1) The total size of the area and related tracts of basic farmland;
- (2) The grade of the farmland;
- (3) Protective measures;
- (4) Rights and obligations of all parties; and
- (5) Rewards and punishment.

Agricultural contracts shall clearly state the obligations of contracting households and specialized teams (groups) regarding the protection of basic farmland.

Article 31 People's governments at county level and above shall establish a system guiding supervision and inspection of the protection of basic farmland, and shall periodically organize the inspections to be carried out jointly by respective land administration, agricultural administration and other relevant departments. A written report on the findings of investigations shall be submitted to people's governments at a higher level. Units and individuals being inspected shall without refusal provide truthful information and materials.

Article 32 Land administration and agricultural administration departments of people's governments at county level and above maintain the right to order the correction of acts which damage cultivated land in protected areas of basic farmland within their respective administrative regions.

Chapter V Provisions on Punishment

Article 33 Anyone committing any of the following acts in violation of provisions of these Regulations shall be punished in accordance with relevant provisions in the "Land Administration Law of the People's Republic of China":

- (1) Unlawfully occupying cultivated land in protected areas of basic farmland without approval or otherwise obtaining approval by means of deception;
- (2) Units or individuals having no right to approve the requisition or use of cultivated land in protected areas of basic farmland illegally approve such the occupancy;
- (3) Illegally approving the occupancy of cultivated land in protected areas of basic farmland beyond the limits of authority; and
- (4) Purchasing, selling or otherwise illegally transferring in other forms cultivated land in protected areas of basic farmland.

Article 34 Where anyone, in violation of provisions of these Regulations, damages or wantonly alters protective signs demarcating protected areas of basic farmland, the respective land administration department or the agricultural administration department as authorized by the former department shall order the offender to restore the signs to their original condition and may concurrently impose on the offender a fine not exceeding 500 Renminbi Yuan.

Article 35 Anyone, in violation of these Regulations, constructing cave dwellings or houses, digging graves, or excavating sand, quarrying, mining, or otherwise removing earth on basic farmland, and seriously damaging cultivation conditions shall, in accordance with the provisions of the "Land Administration Law of the People's Republic of China", be ordered to make remedy within the prescribed time limit, and may concurrently be imposed a fine of not exceeding 15 Renminbi Yuan per square meter of the damaged cultivated land.

Article 36 Units illegally using reclamation fees for occupancy of land in protected areas of basic farmland, or illegally using non-use fees, shall be ordered by the relevant departments of local governments at or above county level as designated by the people's governments of province, autonomous region or municipality directly under the Central Government to reimburse the illegally used funds and may be imposed a fine not exceeding three times the amount of illegally used funds. Units or higher level organizations shall render administrative punishment to directly responsible persons in charge and other directly responsible persons. The individuals who illegally use such fees shall be punished for embezzlement.

Article 37 Parties found to be supplying basic farmland with fertilizers or urban refuse or sludge which fails to conform with state standards shall be warned or shall be subject to a fine imposed by the agricultural administration departments of respective local people's governments at or above county level.

Chapter VI Supplementary Provisions

Article 38 People's governments of provinces, autonomous regions and municipalities directly under the Central Government may, in accordance with actual local conditions, delimit other land used for agricultural production as protected areas. The protection and administration of other land used for agricultural production in protected areas may be conducted by reference to these Regulations.

Article 39 People's governments of provinces, autonomous regions and municipalities directly under the Central Government may formulate implementation rules in accordance with these Regulations.

Article 40 These Regulations shall become effective on October 1, 1994.