

THE ADMINISTRATIVE MEASURES FOR GRASS SEEDS

Ministry of Agriculture

Order of the Ministry of Agriculture

No. 56

The Administrative Measures for Grass Seeds, which were adopted at the 2nd executive meeting of the Ministry of Agriculture on January 5, 2006, are hereby promulgated and shall come into force as of March 1, 2006. The Interim Measures for the Administration of Pasture Seeds (for Trial Implementation) as promulgated by the Ministry of Agriculture, Animal Husbandry and Fishery on October 25, 1984 shall be simultaneously abolished.

Minister Du Qinglin

January 12, 2006

The Administrative Measures for Grass Seeds

Chapter I General Provisions

Article 1

The present Measures are formulated according to the Seed Law of the People's Republic of China and the Pasture Law of the People's Republic of China for the purpose of regulating and intensifying the administration of grass seeds, elevating the quality of grass seeds, safeguarding the legitimate rights and interests of seed selectors, producers, business operators and users and promoting the sound development of the grass industry.

Article 2

Such activities as selection and cultivation of grass varieties as well as production, business operation, use and management of grass seeds within the territory of the People's Republic of China shall be governed by the present Measures.

Article 3

The term "grass seeds" as mentioned in the present Measures refers to such materials of planting or propagation as grains, fruits, roots, stems, seedlings, leaves and buds for the purposes of animal breeding, ecological construction and afforestation and embellishment.

Article 4

The Ministry of Agriculture shall take charge of the administration of grass seeds throughout the country.

The administrative departments of pasture of local people's governments at or above the county level shall take charge of the administration of grass seeds within their administrative divisions.

Article 5

The administrative department of pasture and its functionary shall not participate in or engage in any production or business operation of grass seeds. An entity that engages in the production and business operation of grass seeds shall not participate in or engage in the administration of grass seeds. The administrative department of grass seeds and entities that engage in the production and business operation of grass seeds shall be independent from each other in regard of personnel and finance.

Article 6

The administrative department of pasture of the local people's government at or above the county level shall intensify the protection of grass germplasm resources and the selection, cultivation, production, innovation and popularization of improved varieties, encourage the combination of selection, cultivation, production and business operation of grass seeds and award any entity or individual that has outstanding performance in such work as the protection of grass germplasm resources or the selection, cultivation, production and popularization of improved varieties.

Chapter II Protection of Grass Germplasm Resources

Article7

The state protects grass germplasm resources and no entity or individual may injure or damage any resource.

Article8

The Ministry of Agriculture may formulate a roster of key grass germplasm resources under state protection according to relevant requirements.

Article9

The Ministry of Agriculture may organize relevant entities to collect, straighten out, authenticate, register, preserve, exchange and utilize the grass germplasm resources, establish a database of grass germplasm resources and publicize the roster of grass germplasm resources as available on a periodic basis.

Article10

The Ministry of Agriculture and the administrative departments of pasture of the provincial people's governments may, according to relevant requirements, establish protection zones or areas of grass germplasm resources at the state or local level.

Article11

It's prohibited to collect or excavate any key natural grass germplasm resource under state protection. In the case of any special circumstance such as any actual requirement of scientific research for collection or excavation, it shall be subject to the examination of the administrative department of pasture of the provincial people's government and be reported to the Ministry of Agriculture for examination and approval as well.

Article12

Any grass germplasm resource as imported from a foreign country shall be subject to relevant inspection and quarantine according to law. As to any grass seed that has been introduced for the first time, an isolated trial planting shall be carried out and a risk appraisal shall be conducted thereon as well. The said grass seed may be put into application only after it has been confirmed as secure.

Article13

The state has sovereignty over grass germplasm resources. Where any entity or individual provides any grass germplasm resource to a foreign country, it shall be subject to the examination of the administrative department of pasture of the people's government of the local province, autonomous region or municipality directly under the Central Government and shall be reported to the Ministry of Agriculture for approval.

Chapter III Selection and Cultivation as well as Examination and Approval of Grass Varieties

Article14

The state encourages an entity or individual to engage in the selection and cultivation of grass varieties, encourage an entity of scientific research to coordinate with relevant enterprise in the selection and cultivation of grass varieties and encourage enterprises to invest in the selection and cultivation of grass varieties.

Article15

The state adopts an examination and approval system for new grass varieties. Where any new grass variety fails to pass relevant examination and approval, no related advertisement may be issued and neither may relevant business operation and popularization be conducted.

Article16

A National Committee for Grass Examination (hereinafter referred to as the NCGE) as established by the Ministry of Agriculture shall take charge of the examination and approval of new grass varieties. The NCGE shall be composed of specialized personnel that hold senior professional and technical titles or assume any post of section chief or above in such aspects as scientific research, teaching, technical popularization and administration.

The director, associate directors and commissioners of the NCGE shall be appointed by the Ministry of Agriculture.

Article17

As to any new grass variety that has passed the examination and approval, the NCGE shall issue a certificate thereto and the Ministry of Agriculture shall make an announcement thereon.

An announcement on examination and approval shall include variety names, selector and producer and adaptive areas.

As to any new grass variety that fails to pass the examination and approval, the NCGE shall inform the applicant in written form and give relevant explanations as well.

Article18

Where any foreign citizen, enterprise or other organization that has no habitual residence or business place in China applies for the examination and approval of any new grass variety in China, he/it shall entrust a Chinese entity with the qualification of legal person that engages in the scientific research, production or business operation of grass varieties to handle the matter on his/its behalf.

Chapter IV Production of Grass Seeds

Article19

A licensing system shall be adopted for the production of major grass seed products.

A License for Production of Grass Seeds shall be subject to the verification and issuance of the administrative department of pasture of the provincial people's government at the locality of the entity or individual that undertakes the production of grass seeds.

Article20

An entity or individual that applies for collecting a Production License for Grass Seeds shall meet the following requirements:

(1)

Having the conditions of isolation and breeding for propagation of grass seeds;

(2)

Having a production site of grass seeds where there is no quarantine subject as prescribed by the state;

(3)

Having the relevant capital as well as facilities for production and inspection compatible with the production of grass seeds;

(4)

Having relevant specialized production and inspection technicians; and

(5)

Meeting any other requirements as prescribed by any law or regulation.

Article21

Any person or entity that applies for collecting a Production License for Grass Seeds shall submit the following materials:

(1)

An application form for the Production License for Grass Seeds;

(2)

The certification on the qualification of specialized production and inspection technicians;

(3)

The certification materials on its registered capital;

(4)

A checklist and photos of inspection facilities and instruments and equipment as well as the certification on the property right or legal use right thereof;

(5)

An introduction to the grass seed yard or a photo of grass drying equipment as well as the certification on the property right or legal use right thereof;

(6)

A photo of the grass warehousing facilities as well as the certification on the property right or legal use right thereof;

(7)

The inspection and quarantine certification on the production site of grass seeds as well as an introduction thereto;

(8)

A quality guaranty system of grass seed production; and

(9)

An introduction to variety properties.

Where any variety is an authorized one, a written certification or variety transfer contract as approved by the owner of the variety shall be provided. Where any grass seed in production falls within the trans-genetic category, a Safety Certificate of Agricultural Trans-genetic Living Things shall be provided.

Article22

The organ in charge of examination and approval shall conclude an examination and make a decision on whether or not to issue a Production License for Grass Seeds within 20 days as of the day when it accepts an application. In the case of disapproval, it shall notify the relevant applicant in written form and give an explanation.

Where necessary, the organ in charge of examination and approval may carry out an on-the-spot inspection regarding production site, airing and drying facilities, warehousing facilities, testing equipment and instruments.

Article23

The format of the Production License for Grass Seeds shall be uniformly formulated by the Ministry of Agriculture.

The valid term of a Production License for Grass Seeds is 3 years. Where any production needs to be extended upon expiration of the Production License for Grass Seeds, the relevant licensee may, 3 months before expiration, apply for renewing the Production License for Grass Seeds upon the strength of the original License according to the original procedures for application.

Within the valid term of a Production License for Grass Seeds, where any item as indicated on the License is altered, the relevant licensee shall handle the formalities for alteration in the original organ in charge of examination and approval and shall provide relevant certification materials.

Article24

No entity or individual may, without a Production License for Grass Seeds, engage in any production of major grass seed products.

It's prohibited to forge, alter, purchase or sell, or rent or borrow any Production License for Grass Seeds.

Article25

An entity or individual that engages in the production of grass seeds shall carry out the grass seed production according to the Technical Rules on Grass Seed Production and establish an archive of grass seed production, which shall indicate such contents as production site, environmental conditions, original crops, source and quality of parent seeds, persons in charge of technologies, field-check record, weather record of production place, and seed distribution etc. A production archive shall be preserved for 2 years after the grass seed production is started.

Chapter V Business Operation of Grass Seeds

Article26

A licensing system shall be adopted for the business operation of grass seeds. An entity or individual that engages in grass seed production shall obtain a License for the Business Operation of Grass Seeds before it/he goes to the administrative organ for industry and commerce to apply for handling or altering the business license upon the strength of its License for the Business Operation of Grass Seeds unless it is otherwise prescribed by the Seed Law of the People's Republic of China that a License for the Business Operation of Grass Seeds is not required.

A business operation license for crossbreed seeds, parent seeds or original seeds of original strains of major grass seeds shall be subject to the examination and approval of the administrative department of pasture of the people's government at the county level where the relevant entity or individual that engages in the business operation of grass seeds is located and shall be subject to the verification of and be issued by the administrative department of pasture of the provincial people's government.

As to any person or entity that engages in the import of grass seeds, a License for the Business Operation of Grass Seeds shall be subject to the examination and approval of the administrative department of pasture of the provincial people's government where the relevant entity or individual that engages in the business operation of grass seeds is located and shall be subject to the verification of and be issued by the Ministry of Agriculture.

Any other business operation licenses for grass seeds shall be subject to the verification of and be issued by the administrative department of pasture of the people's government at the county level where the relevant entity or individual that engages in the business operation of grass seeds is located.

Article27

Any entity or individual that applies for collecting a License for the Business Operation of Grass Seeds shall meet the following requirements:

(1)

Having sufficient capital compatible with the variety and quantity of grass seeds under business operation as well as the capability of bearing civil liabilities independently;

(2)

Having relevant personnel who are capable of identifying the varieties of and examining the quality of grass seeds under business operation as well as mastering the technologies for preserving and storing grass seeds;

(3)

Having a business place as well as warehousing facilities compatible with the varieties and quantity of grass seeds under business operation; and

(4)

Meeting any other requirement as prescribed by any law or regulation.

Article28

An entity or individual that applies for collecting a License for the Business Operation of Grass Seeds shall submit the following materials:

(1)

An application form for a License for the Business Operation of Grass Seeds;

(2)

A photocopy of its business place as well as the certification on property right or legal use right thereof; and

(3)

A checklist and photo of warehousing facilities of grass seeds as well as the certification on property right or legal use right thereof.

Article29

The organ in charge of examination and approval shall conclude an examination and make a decision on whether or not to approve and issue a License for the Business Operation of Grass Seeds within 20 days as of accepting an application. In the case of disapproval, an explanation shall be given to the relevant applicant in written form.

Where necessary, the organ in charge of examination and approval may carry out an on-the-spot inspection on the relevant business place, the facilities for processing, packing and preservation as well as inspection equipment and facilities for grass seed quality.

Article30

The format for a License for the Business Operation of Grass Seeds shall be uniformly prescribed by the Ministry of Agriculture.

The valid term of a License for the Business Operation of Grass Seeds is 3 years. Where any business needs to be extended upon expiration of the License for the Business Operation of Grass Seeds, the relevant licensee may, 3 months before expiration, apply for renewing the License for the Business Operation of Grass Seeds upon the strength of the original License according to the original procedures for application.

Within the valid term of a License for the Business Operation of Grass Seeds, where any item as indicated on the License is altered, the relevant licensee shall handle the formalities for alteration in the original organ in charge of examination and approval and shall provide relevant certification materials.

Article31

No entity or individual may, without a License for the Business Operation of Grass Seeds, engage in the business operation of grass seeds.

It's prohibited to forge, alter, purchase or sell, or rent or borrow any License for the Business Operation of Grass Seeds.

Article32

A business operator of grass shall be responsible for the quality of grass seeds under business operation and shall, according to the provisions of relevant laws and regulations, provide relevant consultation services to users of grass seeds in respect of properties and planting technologies.

Article33

The grass seeds at sale shall be packaged. If they are packed into small packages, the package undertaking entity, the name of the original grass seeds or the variety name of the grass seeds and place of origin shall be indicated on the small packages.

Article34

A label shall be attached to any grass seed at sale, which shall indicate the category of the grass seed, variety name, seed batch number, production place, production time, name of the production entity and quality indicators, etc..

The contents as indicated on a label shall comply with the real state of the grass seed at sale.

A label in Chinese shall be attached to any imported grass seed at sale.

Article35

A business operator of grass seeds shall establish an operating archive of grass seeds, which shall indicate such contents as brief introduction to the source, processing, storage, transport and all links of quality testing of grass seeds as well as to relevant persons in charge and sales whereabouts.

An operating archive shall be preserved for 2 years after the sale of grass seeds.

Article36

The administrative department of pasture at or above the county level shall intensify the supervision and administration of grass seed advertising. The advertised contents regarding grass seeds shall comply with relevant laws and regulations. The major properties as described therein shall comply with the announcement upon examination and approval so as to avoid any false or misleading publicity.

Chapter VI Quality of Grass Seeds

Article37

The Ministry of Agriculture shall take charge of formulating a national supervisory sampling planning for grass seed quality as well as a supervisory sampling plan for grass seed quality at its level. The administrative departments of pasture of the people's governments at or above the county level shall formulate the relevant supervisory sampling plan according to the national planning and local situations.

The expenses for supervisory sampling shall be incorporated into the budget of the administrative department of pasture and shall not be collected from any enterprise subject to sampling.

As to any enterprise that has gone through a supervisory sampling as conducted by the administrative department of pasture, the administrative department of pasture at the same level or at any lower level shall not carry out any repetitive supervisory sampling over the same crop seed of the foregoing enterprise within 6 months as of sampling.

Article38

The administrative department of pasture may entrust an inspection institution of grass seeds to carry out a quality inspection on grass seeds.

Any institution that engages in quality inspection of grass seeds shall have relevant testing conditions and capabilities and shall pass the examination as conducted by the relevant competent department under the people's government at or above the provincial level.

Article39

A inspector of grass seeds in an inspection institution of grass seed quality shall meet the following requirements:

(1)

Having relevant academic background at or above the junior college level or professional title at or above the intermediate level;

(2)

Engaging in the technological work relating to the inspection of grass seeds for no fewer than 3 years; and

(3)

Having passed an examination as conducted by the administrative department of pasture of the people's government at or above the provincial level.

Article40

A quality inspection shall be carried out according to the State Rules on Forage Seed Testing for the grass seeds subject to supervisory sampling. In the case of no relevant provision in the State Rules on Forage Seed Testing, the relevant quality inspection shall be conducted according to the International Rules on Seed Testing.

Article41

Such contents as the name of relevant grass seed, sampling date, quantity of relevant grass seed under testing, seed batch number and testing results shall be indicated in a Testing Report on Grass Seed Quality.

A Testing Report on Grass Seed Quality shall be filled in by a seed inspector who conducts testing upon the strength of qualification certificate, be issued by the principal of the inspection institution and be affixed with a special examination seal of the inspection institution.

Article42

Where any person subject to sampling has any different opinion over any inspection result, he shall, within 15 days as of receiving a notice on inspection result, file a written application for re-examination to the administrative department of pasture that has distributed the relevant tasks. Where any person fails to file an application within the time limit, it shall be deemed that he has accepted the inspection result.

The administrative department of pasture that has received an application for re-examination shall carry out the relevant examination and, where it so requires, arrange the relevant re-examination in a timely manner.

Article43

It is prohibited to produce or operate any fake or bad grass seed:

Under any of the following circumstances, a grass seed falls within the category of fake grass seeds:

(1)

Imitating grass seed by any non-grass-seed or imitating grass seeds of other variety by grass seeds of this variety; or

(2)

The category, variety or production place of any grass seed not complying with the contents as indicated on the label.

Under any of the following circumstances, a grass seed falls within the category of bad grass seeds:

(1)

The quality failing to meet the standards for use of seeds as prescribed by the state;

(2)

The quality failing to meet the indicators as labeled;

(3)

Failing to be used due to deterioration;

(4)

The ratio of wild weed seeds going beyond the relevant provision; or

(5)

Carrying any quarantine subject as prescribed by the state.

Article44

Any grass seed under production and business operation shall be subject to inspection and quarantine according to the provisions of relevant laws and regulations on plant inspection and quarantine so as to prevent any spread of dangerous deceases of plants, insects, wild weeds and other harmful living things.

No entity or individual may carry out any inoculation research on plant/insect diseases in any production base of grass seeds.

Chapter VII Administration of Import and Export of Grass Seeds

Article45

An entity that engages in the import or export of grass seeds shall, in addition to having obtained a License for the Business Operation of Grass Seed, obtain the qualification for trade regarding import and export of grass seeds according to the relevant provisions of the laws and regulations of the state on foreign trade.

Article46

An examination and approval system shall be adopted for the import and export of grass seeds.

Any entity or individual that applies for the import or export of grass seeds shall fill in an Examination and Approval Form for Import (Export) of Grass Seeds and be subject to the examination and approval of the administrative department of pasture of the people's government at the provincial level. The relevant formalities for import and export shall be handled according to law after the said Examination and Approval Form for Import (Export) of Grass Seeds is reported to the Ministry of Agriculture for examination and approval.

The valid term for an examination and approval document of grass seeds shall be 3 months.

Article47

The grass seeds to be imported or exported shall meet the following requirements:

(1)

The quality of grass seeds shall meet the state standards;

(2)

The relevant certification on the name, quantity and place of origin of relevant grass seed is authentic and complete; and

(3)

It is not any of the grass seeds as prohibited by the state from import or export.

Any entity or individual that applies for importing or exporting any grass seed shall submit the following materials:

(1)

A License for the Business Operation of Grass Seeds, a duplicate of the business license as well as the trade qualification certification on import and export;

(2)

The certification materials on the name, quantity and place of origin of the relevant grass seed; and

(3)

The international examination and approval certificate of the imported grass variety or a roster of registered varieties;

Article48

Where any grass seed is imported for producing seeds for a foreign country, it may not be restricted by Article45 of the present Measures. However, a contract on seed production for a foreign country shall be provided. Any imported seed shall be only applied in seed production and the products as generated therefrom shall not be sold in the domestic market.

Chapter VIII Supplementary Provisions

Article49

Any entity or individual that violates any provision of the present Measures shall be punished according to the relevant provisions of the Seed Law of the People's Republic of China and the Pasture Law of the People's Republic of China.

Article50

The administration of selection, cultivation, testing, popularization, production, processing, business operation and import and export of trans-genetic grass seeds shall be governed by the provisions of the Regulation on the Safety Administration of Agricultural Trans-genetic Living Things as well.

Article51

As to the collection, excavation or provision-to-the-overseas or introduction-from-the overseas of any grass germplasm resource that has been listed into the roster of key wild plants under the state protection, aside from the formalities for examination and approval as prescribed by the present Measures, the relevant formalities for examination and approval shall be handled according to the Regulation of the People's Republic of China on the Protection of Wild Plants and the Measures for the Protection of Agricultural Wild Plants.

Article52

The term "major grass seeds" as mentioned in the present Measures refers to the following: clover, erect milkvetch, caragana, sainfoin, all-grass of red clover, hedysarum, stylosanthes, kikuyu grass, siberian wildrye grass, fairway wheat grass, buffells grass, fescue, orchard grass, puccineuia distans, elymus rectisetus, bicolor lespedeza, coronilla, smooth brome, oat, tricale, rye-grass, sorghum sudanense, melilotus officinalis and poarachnifera, and any other 2 or 3 grass seeds as respectively determined by the administrative department of pasture of the people's government of every province, autonomous region or municipality directly under the Central Government

The term "grass seeds" as mentioned in the present Measures shall not include any field crop such as corn and forage sorghum.

Article53

The present Measures shall come into force as of March 1, 2006. The Interim Measures for the Administration of Forage Seeds (for Trial Implementation) shall be simultaneously abolished.

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