Regulations on the Protection of Geographical Indication Products of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Designation of Geographical Indications 2

Chapter III — Use of Geographical Indications 2

Chapter IV — Protection and Supervision 3

Chapter V — Supplementary Provisions 4

Promulgated by Order No. 78 of the State Administration for Market Regulation on December 29, 2023
Effective: February 1, 2024

Table of Contents

- Chapter I — General Provisions
- Chapter II — Designation of Geographical Indications
- Chapter III — Use of Geographical Indications
- Chapter IV — Protection and Supervision
- Chapter V — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Regulations are enacted in accordance with the Trademark Law of the People's Republic of China and other relevant laws for the purposes of strengthening the protection of geographical indication products, regulating the use of geographical indication product names and special marks, ensuring the quality and characteristics of geographical indication products, protecting the legitimate rights and interests of consumers, and promoting the development of the geographical indication industry.

Article 2 — "Geographical indication products" referred to in these Regulations mean products that are produced within a specific geographical area and whose quality, reputation, or other characteristics are essentially attributable to the natural and human factors of that area, including: (1) products grown or cultivated within a specific geographical area; (2) products processed within a specific geographical area using all or mainly raw materials produced within that area; (3) products processed within a specific geographical area whose quality or characteristics are essentially attributable to the specific processing techniques of that area.

Article 3 — The State Administration for Market Regulation (SAMR) shall be responsible for the unified administration of the protection of geographical indication products throughout the country. The intellectual

Source: https://www.danyoungcpa.com/regulations-protection-geographical-indication-products-prc-2023/

property administration departments of local people's governments at or above the county level shall be responsible for the relevant administrative work concerning geographical indication products within their respective administrative regions.

Article 4 — The protection of geographical indications shall follow the principles of government guidance, social supervision, industry self-regulation, and voluntariness in application. The State encourages and supports the protection of geographical indications and promotes the use of geographical indications in production, trade, and investment.

Article 5 — The State shall establish a unified system for the protection of geographical indication products. No entity or individual may use a geographical indication product name or a name similar to a geographical indication product name without authorization, where such use is likely to cause confusion among the public.

Chapter II — Designation of Geographical Indications

Article 6 — To apply for designation of a product as a geographical indication product, the following conditions shall be met: (1) the product has a specific name, which is generally composed of a geographical name and a generic product name; (2) the quality, reputation, or other characteristics of the product are essentially attributable to the natural and human factors of the specific geographical area; (3) the product is produced within the defined geographical scope using specific production techniques; (4) the product has a recognized reputation in the market; (5) the product has objective and detectable quality characteristics.

Article 7 — An application for the designation of a geographical indication product shall be filed by the people's government of the producing area or a trade association, enterprise, or institution designated by it. The application shall include: (1) the application for geographical indication product protection; (2) proof of the scope of the producing area and proof of the approval of the scope of the producing area by the local people's government; (3) materials on the quality characteristics of the product and the relationship with the natural and human factors of the producing area; (4) the product quality technical specifications; (5) other materials required by SAMR.

Article 8 — An application for the designation of a foreign geographical indication product in China shall be filed by the competent authority of the country where the geographical indication is located or an entity designated by it, in accordance with the relevant international treaties to which China is a party or the principle of reciprocity.

Article 9 — Upon receiving an application for the designation of a geographical indication product, SAMR shall complete the formal examination within 30 days. If the application meets the requirements, it shall be accepted; if not, the applicant shall be notified of the corrections required.

Article 10 — After accepting an application, SAMR shall organize a substantive examination. Where necessary, SAMR may conduct on-site verification and shall publish the application for public comment. The public comment period shall be no less than two months.

Article 11 — If, after examination, the application meets the conditions, SAMR shall approve the designation and register and publish it. The validity period of a geographical indication product designation shall be indefinite.

Article 12 — If, after examination, the application does not meet the conditions, SAMR shall reject the application and notify the applicant of the reasons in writing.

Chapter III — Use of Geographical Indications

Article 13 — Producers within the producing area of a registered geographical indication product may apply to use the special geographical indication mark on their products if they meet all of the following conditions: (1) their products are produced within the defined geographical scope; (2) their products meet the quality

Source: https://www.danyoungcpa.com/regulations-protection-geographical-indication-products-prc-2023/

requirements and other specific characteristics of the geographical indication product; (3) their products are produced using the specified production techniques; (4) they have established a quality traceability system.

Article 14 — A producer that applies to use the special geographical indication mark shall submit an application to the local intellectual property administration department, which shall conduct preliminary examination and submit the application to SAMR for review. Upon approval by SAMR, the application shall be registered and published, and the producer may use the special geographical indication mark on its products.

Article 15 — The special geographical indication mark shall include the geographical indication product name and the special geographical indication pattern. The specifications, style, and use requirements of the special geographical indication mark shall be prescribed by SAMR.

Article 16 — Producers who have been approved to use the special geographical indication mark shall: (1) use the special mark in accordance with the prescribed specifications and style; (2) produce in accordance with the quality technical specifications, and ensure that the product quality meets the standard; (3) establish production ledgers and quality traceability accounts, and keep relevant records; (4) accept supervision and inspection by the relevant departments.

Article 17 — The right to use the special geographical indication mark may not be transferred, licensed, or assigned in disguised form.

Article 18 — Where a producer voluntarily discontinues use of the special geographical indication mark, it shall submit a written application to SAMR for cancellation of the registration of use.

Chapter IV — Protection and Supervision

Article 19 — The protection of geographical indication products includes: (1) protection of the geographical indication product name; (2) protection of the special geographical indication mark; (3) protection of the quality characteristics and reputation of the geographical indication product; (4) other protection required by law.

Article 20 — The following acts are prohibited: (1) using a geographical indication product name or a name similar to a geographical indication product name on a product that is not produced within the producing area, where such use is likely to cause confusion; (2) using the special geographical indication mark or a mark similar to the special geographical indication mark without authorization; (3) using a geographical indication product name in a manner that misleads the public regarding the origin or quality of the product; (4) forging or manufacturing without authorization the special geographical indication mark, or selling a forged or unauthorized special geographical indication mark; (5) other acts that infringe upon the rights and interests of geographical indication products.

Article 21 — The intellectual property administration departments of local people's governments at or above the county level shall strengthen supervision and inspection of the quality and characteristics of geographical indication products produced within their respective administrative regions.

Article 22 — Where a producer approved to use the special geographical indication mark falls under any of the following circumstances, SAMR shall cancel its registration of use and make a public announcement: (1) the producer ceases production or ceases to exist; (2) the product no longer meets the quality or characteristic requirements of the geographical indication product; (3) the producer uses the mark in violation of the prescribed usage requirements and refuses to make rectification after being ordered to do so; (4) the producer transfers, licenses, or assigns in disguised form the right to use the special mark without authorization; (5) other circumstances provided for by laws and regulations.

Article 23 — Where a geographical indication product designation falls under any of the following circumstances, SAMR shall cancel the geographical indication product designation: (1) the natural or human

Source: https://www.danyoungcpa.com/regulations-protection-geographical-indication-products-prc-2023/

factors of the producing area have changed, causing the product to no longer possess the specific quality and characteristics; (2) cancellation is requested by the people's government of the producing area, and it is appropriate to cancel the designation; (3) other circumstances provided for by laws and regulations.

Chapter V — Supplementary Provisions

Article 24 — The protection of foreign geographical indication products within the territory of China shall be governed by the relevant international treaties to which China is a party or handled in accordance with the principle of reciprocity.

Article 25 — Matters not covered by these Regulations shall be governed by the Trademark Law of the People's Republic of China and other relevant laws and regulations.

Article 26 — These Regulations shall be subject to interpretation by SAMR.

Article 27 — These Regulations shall come into force on February 1, 2024. The Provisions on the Protection of Geographical Indication Products promulgated by the former General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) on May 16, 2005, are repealed simultaneously.

Disclaimer: This English translation is provided for reference and informational purposes only. It is not an official translation and shall not be relied upon as legally authoritative. The original Chinese text promulgated by the State Administration for Market Regulation (SAMR) shall prevail in all legal matters. Dan Young Business Consultancy makes no warranty as to the accuracy or completeness of this translation and disclaims all liability for any loss or damage arising from reliance on it. For legal advice regarding the protection of geographical indications in China, please consult a qualified PRC legal professional.