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Report Highlights:

On January 26, the People’s Republic of China published draft “Measures for the Management of Red Lines for Protection of Permanent Basic Farmland,” for public comment through February 26, 2024. This report contains a brief analysis and an unofficial translation of the draft regulations. There is no date scheduled for enforcement. The Measures stipulate that “Permanent Basic Farmland” must be used for grain production instead of other crops. Moreover, the measures layout legal parameters on how other land can be used or designated for agricultural production. It is possible that the long-term impact of the Measures could result in greater grain production efficiencies and larger-scale farm operations.

Background Information

On January 26, 2024, the Ministry of Natural Resources (MNR) and the Ministry of Agriculture and Rural Affairs (MARA) jointly issued the draft “Measures for the Management of Red Lines for the Protection of Permanent Basic Farmland,” for public comment through February 26, 2024 ([link in Chinese](#)). Comments can be sent to fgzqyj@mail.mnr.gov.cn (MNR) or ntszdc@agri.gov.cn (MARA).

Summary

In an effort related to ensuring national food security, the PRC central government has intensified the protection of permanent basic farmland. The current plan has identified 103 million hectares of arable land (out of a total of 124 million hectares of arable land) as permanent basic farmland. According to these measures, this farmland must not be used for non-agricultural purposes under any circumstances. In addition, permanent basic farmland is dedicated primarily to grain production. (Note: See the PRC’s definition of “grains” as recently issued in the country’s [National Food Security Law](#). End Note).

According to these Measures, all permanent basic farmland will be renovated to “high-standard farmland.” And any unauthorized occupation or use and adjustment of the “red lines” of permanent basic farmland protection, such as urban construction projects, are prohibited and are subject to penalty or punishment. In addition, the Measures require that local governments identify “reserve” areas, which are restored arable land or regenerated soils, ready for transformation into permanent basic farmland. In case permanent basic farmland is occupied by a major strategic project, such as residential relocation projects, the reserve area will be converted into permanent basic farmland.

These Measures set the legal basis for the protection of permanent basic farmland. For example, fruit orchards or horticultural production facilities that are built on permanent basic farmland must be restored to grain production area. There are reports of fruit orchards or greenhouses being reclaimed (i.e., destroyed or relocated) for permanent basic farmland and grain production.

In addition, these Measures require that all permanent basic farmland be converted to high-standard farmland. This could mean that as China’s aging farmers retire and rural youth or others migrate to urban areas, the Measures may result in greater farm consolidation which sources expect could lead to more efficient grain production operations in major grain production provinces.

BEGIN TRANSLATION

Measures for the Management of Red Lines for the Protection of Permanent Basic Farmland (Draft for Comments)

Article 1 [Purpose of Formulation] In order to implement the strictest system of arable land protection, guard the red line of permanent basic farmland protection and the bottom line of national food security, and facilitate high-quality economic and social development, these Measures are formulated in accordance with the laws and regulations, such as *the Law of the People's Republic of China on Land Administration, the Implementation Regulations of the Law of the People's Republic of China on Land Administration, and Regulations on the Protection of Basic Farmland.*

Article 2 [Scope of Application] These Measures apply to the determination, control, protection, quality construction, and optimized adjustment of red line of permanent basic farmland protection.

The red line of permanent basic farmland protection referenced in these measures refers to the protection tasks and layout arrangements regarding permanent basic farmland determined by the national land and space planning.

Article 3 [Division of Responsibilities] The competent department of natural resources under the State Council, in conjunction with the relevant departments, is responsible for improving the use control, supervision and management policies involved in the red line of permanent basic farmland protection, establishing and improving the standard and supervision system, and guiding the provinces, autonomous regions and municipalities in the supervision and management of the red line of permanent basic farmland protection, in accordance with the division of responsibilities stipulated by the State Council and these Measures.

The competent department of agriculture and rural affairs under the State Council, in conjunction with the relevant departments, shall be responsible for improving the policies on the construction, upgrading and investigation, monitoring and evaluation of the quality of permanent basic farmland, establishing and improving the standards and supervision system, guiding provinces, autonomous regions and municipalities in gradually converting all permanent basic farmland into high-standard farmland, and carrying out the supervision and management

regarding the cultivation of high-standard farmland and the quality changes of permanent basic farmland, in accordance with the division of responsibilities stipulated by the State Council and these Measures.

The departments in charge of natural resources and agriculture and rural affairs of the people's governments at or above the county level shall strengthen the synergy of work, establish a mechanism for synergy and information sharing in the protection of permanent basic farmland, share data results on the determination of permanent basic farmland, the quality grade of permanent basic farmland, and high-standard farmland, and perform the supervision and management of the red line of permanent basic farmland protection based on their division of responsibilities.

Article 4 [Responsibilities and Obligations of the Public] Any organization or individual has the obligation to protect permanent basic farmland and has the right to report or charge the encroachment, destruction of permanent basic farmland and other violations against laws, regulations, and the provisions of these measures.

Article 5 [Planning Priority Sequence and Decomposition and Implementation] The formulation of national land and space planning shall prioritize the determination of permanent basic farmland, and specify the layout, scale quantity and quality requirements of permanent basic farmland. The results of permanent basic farmland determination shall, after approval, be incorporated into the national land and space planning as the red line of permanent basic farmland protection.

Provinces, autonomous regions, and municipalities shall, in accordance with the protection tasks issued by the state, organize the implementation of permanent basic farmland protection tasks within their jurisdiction through the national land and space planning, and reasonably control the determined proportion of plains and mountainous areas of the city, and ensure that the quantities of permanent basic farmland within their jurisdiction will not be reduced and that the quality of the permanent basic farmland will not be degraded.

Article 6 [Determination and Implementation of Permanent Basic Farmland] The permanent basic farmland should be determined at the township level, implemented by the county government department in charge of natural resources, in conjunction with the competent

department of agriculture and rural affairs, and jointly reported to the provincial people's government departments of natural resources and agriculture and rural affairs.

The determined scope of permanent basic farmland shall comply with *the Law of the People's Republic of China on Land Administration* and relevant laws and administrative regulations as well as the provisions of the State Council.

The determination of permanent basic farmland shall not include cultivated land that has been seriously damaged due to production, construction, or natural disasters and cannot be restored, cultivated land within the embankment on both sides of a river that is unsuitable or difficult to utilize in a stable manner, cultivated land with a slope of more than 25 degrees that has not taken soil and water conservation measures, and cultivated land that needs to be converted to forests, grasses, lakes, and pastures according to the relevant state regulations.

Based on the state regulations, the departments of natural resources and agriculture and rural affairs under the people's governments of provinces, autonomous regions and municipalities shall accept and confirm the results of the defined permanent basic farmland. The people's governments of provinces, autonomous regions, and municipalities may authorize the competent authorities in charge of natural resources and agriculture and rural affairs at the city level to accept and confirm the results and report to the competent authorities of natural resources and agriculture and rural affairs under the provincial people's governments.

The technical procedures for the determination of permanent basic farmland shall be drafted by the competent department of natural resources under the State Council in conjunction with the competent department of agriculture and rural areas.

Article 7 [Informationization Construction and Disclosure] The competent department of natural resources under the State Council shall establish a unified national information platform and disclose the red line of permanent basic farmland protection in accordance with laws.

The competent departments of natural resources of the people's governments at or above the county level shall strengthen the construction of informatization, establish a unified "one map" implementation and supervision information system for land spatial planning and a database of

permanent basic farmland, and maintain and update the data and information on the red line of permanent basic farmland protection in a timely manner.

The people's governments of townships (towns) shall take the initiative to announce the location and scope of permanent basic farmland to the society in accordance with laws.

Article 8 [Control and Protection Principles and "Three Lines" Coordination Mechanism] Permanent basic farmland defined based on laws, any organization or individual shall not adjust or change the purpose without authorization.

It is prohibited to adjust the red line of permanent basic farmland protection without authorization for the purpose of occupying a single project in urban and rural construction. It is prohibited to adjust and occupy the red line of permanent basic farmland protection without authorization in the process of adjusting the red line of ecological protection and the urban development boundary.

The permanent basic farmland within the urban development boundary should be retained in principle. For farmland that is sporadic broken, inconvenient for farming, or requiring consolidation and remediation, it should be retained within the scope of the urban development boundary, and the total area should not be reduced. If the farmland really needs to be moved out of the scope of the urban development boundary, make sure that the scale of the urban development boundary will not be expanded.

For consolidated terraces and arable land coexisting with ecological protection objects that is necessary to be incorporated into the natural protection area and is in line with the requirements for the determination of permanent basic farmland, the land can be assigned to the red line of ecological protection and the red line of permanent basic farmland protection at the same time and implement strict protection after the competent department of natural resources of the provincial people's government has discussed with relevant departments.

Article 9 [Situations of Strictly Prohibited Occupation] The following acts are prohibited to occupy permanent basic farmland:

1) digging lakes to create scenery, constructing green belts, planting turf, etc. for greening and decoration purposes.

2) occupying beam making yards, mixing stations, etc. in the form of temporary land use.

3) constructing livestock and poultry breeding facilities, aquaculture facilities, and planting facilities destroying the cultivation layer (except for those that have been approved according to laws and regulations before the determination of permanent basic farmland), and dredging ponds to raise fish, development of forestry and fruit industry and other types of activities that cause changes in the land type.

4) other cases stipulated by laws, administrative regulations, and the State Council.

Permanent basic farmland shall not be included in the scope of ecological fallow.

Article 10 [Construction of High-standard Farmland] The competent departments of agriculture and rural affairs of the people's governments at or above the county level, in conjunction with the relevant departments, shall implement the land and space planning, high-standard farmland construction planning and prioritize the construction of high-standard farmland on the permanent basic farmland and gradually turn all the permanent basic farmland to high-standard farmland.

Article 11 [Quality Enhancement] The competent departments of agriculture and rural affairs of the people's governments at or above the county shall be responsible for organizing and implementing the enhancement of the permanent basic farmland quality, facilitating the improvement of organic matters in arable land, adopting protective farming, managing the degraded arable land, improving the soil health, protecting the black soil, and adopting measures such as engineering, biology, and agronomy to enhance the organic matters of the soil, to improve the structure of the soil, to protect the soil biodiversity, and to treat the degraded and contaminated permanent basic farmland.

Article 12 [Quality Evaluation] The competent departments of agriculture and rural affairs of the people's governments at or above the county level shall be responsible for conducting surveys,

monitoring, and evaluation of the construction and protection of permanent basic farmland quality and guiding the agricultural production and the construction and protection of permanent basic farmland quality based on dynamic changes in permanent basic farmland quality. The competent department of agriculture and rural affairs of the provincial people's government shall establish permanent basic farmland quality files and regularly release information on permanent basic farmland quality within its jurisdiction.

Article 13 [Reserve Area for Permanent Basic Farmland] The competent department of natural resources of the people's government at or above the county level shall organize the determination of reserve area for permanent basic farmland in conjunction with the competent department of agriculture and rural affairs and timely allocate new high-quality arable land to reserve area through comprehensive land remediation and arable land restoration efforts as a main source of replenishment when a major construction project occupies the permanent basic farmland or the permanent basic farmland protection red line is adjusted.

Article 14 [Cropland Prioritized for Permanent Basic Farmland Reserve Area] The following cropland shall be prioritized for the reserve area of the permanent basic farmland:

- 1) new arable land added through comprehensive land remediation.
- 2) arable land connected with the determined permanent basic farmland with quality higher than the average level of the region and with a slope of less than 15 degrees.
- 3) arable land with good irrigation and soil and water conservation facilities.
- 4) high-quality arable land restored from other agricultural land such as garden land, forest land, etc.

Article 15 [Management Requirements for Reserve Area of Permanent Basic Farmland] The competent department of natural resources of the provincial people's government shall regularly assess the distribution of farmland resources in the administrative area, and reasonably determine the objectives and tasks of the permanent basic farmland reserve area of the cities and counties based on local conditions, and dynamically adjust the reserve area according to the actual utilization of the farmland in the reserve area.

Before the arable land within the reserve area has been classified as permanent basic farmland, it shall not be managed as permanent basic farmland.

Article 16 [Occupation, Adjustment, and Replenishment Principles] Permanent basic farmland protection red line should adhere to the "overall stability, optimization and fine-tuning". Major construction projects are difficult to avoid the need to occupy permanent basic farmland, high-standard farmland construction, comprehensive land remediation in accordance with the provisions of the red line of permanent basic farmland protection needs to be optimized and adjusted, it should be adjusted in accordance with the principle of "the number of no reduction, no reduction in quality, optimize the layout of the" and replenish, The replenished permanent basic farmland shall be arable land that can be utilized stably for a long period of time.

Article 17 [Occupation by Constructions] All kinds of non-agricultural construction projects shall avoid permanent basic farmland as much as possible. In one of the following cases where it is difficult to avoid, the principles of conservation and intensification should be adopted during the relevant approval process:

1) major construction projects proposed by the Central Party Committee or the State Council; military and defense projects approved by the Central Military Commission and its relevant departments; airports, railroads, highways, water transport, energy, water conservancy projects incorporated in the national planning; provincial highway projects under provincial highway network planning.

2) strategic mines specified in the national mineral resources plan, as well as geothermal, mineral water and other non-strategic mines that do not cause damage to permanent basic farmland. Of which, strategic minerals adopting open-pit mining and extraction sites should be handled through procedures for the construction occupation of permanent basic farmland and should comply with the provisions of (a) for major construction projects. Non-strategic mineral rights obtained before the permanent basic farmland has been defined shall be allowed to extend the registration procedures within the scope of the original mineral rights. For land with prospecting rights applying for mining rights, it is allowed to conduct underground mining while protective mining measures are in place.

3) temporary land involved in construction projects, mineral exploration, archaeological exploration and excavation, which complies with the requirements of the management of temporary land and can be restored to the original planting conditions.

4) other cases stipulated by laws, regulations, and the State.

The overhead line towers and substation facilities involved in power grid projects not included in the scope of national major construction projects shall not occupy permanent basic farmland.

Overhead power poles along the field roads, ditches, and field cans that comply with relevant requirements and need to occupy permanent basic farmland may exempt from the approval procedures for construction occupation. The construction organization shall provide reasonable compensation for the individuals with land use rights.

Article 18 [Adjustment of Red Line for High-standard Farmland Construction] High-standard farmland construction projects implemented according to the high-standard farmland construction plan that carry out the necessary irrigation and drainage facilities, field roads, farmland protection forests and other supporting construction, involving a small amount of adjustment of permanent basic farmland, in principle, shall not break through the project area of the original irrigation and drainage facilities, field roads and farmland protection forests, such as the actual land use of farmland infrastructure and the project area through the construction of high-standard farmland and the actual increase in the area of new arable land. If a small amount of breakthrough or adjustment is required, the people's government at the county level shall be responsible for organizing the preparation of the permanent basic farmland adjustment and replenishment plan and coordinating the implementation of the adjustment and replenishment tasks. The county-level departments in charge of natural resources are responsible for reporting the permanent basic farmland adjustment and replenishment plan to the State Council department in charge of natural resources for the record and updating the database of permanent basic farmland in accordance with the relevant regulations.

Article 19 [Adjustment of Comprehensive Land Remediation Red Line] In order to meet the needs of production, living, and ecological functions and comply with the land and space planning and related planning, in accordance with the relevant provisions of the state on the unused, inefficient and idle use, damaged and degraded land and unreasonable use of land to

implement comprehensive land remediation, there is a real need to optimize and adjust the layout of a small amount of permanent basic farmland in accordance with the following provisions:

1) At the project establishment or preliminary design stage, the county-level department in charge of natural resources is responsible for the adjustment and replenishment of permanent basic farmland and reporting to the State Council department in charge of natural resources for the record after review and approval by the provincial people's government departments in charge of natural resources. Permanent basic farmland adjustment and replenishment shall be implemented within the project area. If the project area is difficult to replenish, it shall be implemented within the county.

2) After the project has been completed, the competent department of natural resources of the provincial people's government, together with the relevant departments, shall organize inspection and acceptance. And the implementation of permanent basic farmland adjustment and replenishment plan constitutes an important content of the acceptance.

3) After the project has been inspected and accepted, the provincial people's government in charge of natural resources shall report to the State Council department of natural resources to update the database of permanent basic farmland.

Article 20 [Red Line for Adjusting the Construction of Supporting Facilities of Collectively-owned Economic Organizations] If the collectively-owned economic organizations carry out the construction of necessary irrigation and drainage facilities, rural roads, farmland protection forests and other supporting facilities in the permanent basic farmland that need to optimize and adjust the layout of a small amount of permanent basic farmland but do not involve the occupancy of non-agricultural constructions, the project shall be handled in accordance with the following provisions:

1) Based on regulations of the statues, the collectively-owned economic organizations shall provide the permanent basic farmland adjustment and replenishment proposal to the township (town) people's government on an annual basis after performing the decision-making process on major issues.

2) Based on actual situation, the township (town) people's government shall coordinate the permanent basic farmland adjustment and replenishment proposal. If the arable land in the permanent basic farmland reserve area within their jurisdiction exceeds 1 percent of the permanent basic farmland protection tasks issued by the higher level, the application for adjustment and replenishment can be made to the competent department of natural resources of the people's government at the county level on an annual basis. The scale of annual adjustment of permanent basic farmland shall not exceed 1 percent of the actual area of permanent basic farmland within their jurisdiction.

3) The competent department of natural resources of the people's government at the county level shall coordinate the application for adjustment and replenishment of permanent basic farmland made by the people's government of the township (town) to formulate a plan for the adjustment and replenishment of permanent basic farmland based on the national land and space planning, and then report to the State Council competent department of natural resources for the record following review and approval by the competent department of natural resources at the provincial level.

4) After the completion of the construction of supporting facilities, the competent department of natural resources of the municipal people's government in conjunction with the competent department of agriculture and rural affairs to verify the implementation of permanent basic farmland adjustment and replenishment plan.

5) After the verification has been completed, report the results, following the review and approval of the competent department of natural resources, to the competent department of natural resources of the State Council for updating the database of permanent basic farmland.

Article 21 [Red Line for Annual Assessment Adjustment] The people's government of the township (town) shall conduct annual assessment of the protection of permanent basic farmland under its jurisdiction in accordance with the relevant provisions of the state. If it is necessary to adjust and optimize the layout of a small amount of permanent basic farmland according to the assessment results, the adjustment and optimization shall follow the requirements of "no reduction in quantity, no decline in quality, and a stable layout", and handle the issue in accordance with the following provisions.

1) If the reserve area of the permanent basic farmland within its jurisdiction exceeds 1 percent of the permanent basic farmland protection task by the higher-level government, the township people's government can apply for inclusion of high-quality arable land within the reserve area or high-quality arable land acquired from agricultural spatial governance activities into the permanent basic farmland.

2) The township people's government can apply for removal of land plots out of permanent basic farmland such as permanent basic farmland unsuitable for cultivation after migrants relocation within its jurisdiction, scattered broken land plots, land located on slopes of above 15 degrees, land in ecologically fragile areas, land included in the category of strict control and unable to be restored, disaster destruction and mining damage that cannot be repaired, unstable arable land identified in annual land change surveys, or land verified to be inconsistent with the requirements for transferring to the permanent basic farmland.

3) The eligible township people's government can apply to the competent department of natural resources of the people's government at the county level for adjustment and optimization. The competent department of natural resources of the people's government at the county level shall establish an annual adjustment and supplemental plan for the protection of the red line of permanent basic farmland after verification and report to the competent department of natural resources of the State Council for updating the national database of permanent basic farmland after review and approval by the competent department of natural resources of the people's government at the provincial level.

The permanent basic farmland applied for adjustment according to the annual assessment results shall fall within the township in principle. For farmland that cannot be replenished within the township, it should be coordinated in accordance with regulations of the competent department of natural resources of the provincial people's government. The department in charge of natural resources of the provincial people's government shall ensure that the area of permanent basic farmland transferred into the administrative region is larger than the area transferred out, and the area of arable land on plains within the permanent basic farmland after optimization and adjustment shall be increased, and the area of arable land in the mountainous areas shall be reduced.

Article 22 [Adjustment for Major Strategic Layout] For major regional strategic layout and ecological construction projects defined by the Central Party Committee or the State Council, or

major residential relocation projects involving protection of people's lives and property safety that are difficult to avoid the permanent basic farmland, an application should be filed for the State Council approve and permanent basic farmland should be timely adjusted in accordance with the relevant provisions.

Article 23 [Red Line Adjustment and Coordination with Modifications of Land and Space Plan] If permanent basic farmland is occupied or the layout of permanent basic farmland is adjusted in accordance with the provisions of these Measures, the national database of permanent basic farmland and the implementation and supervision information system of "one map" for land and space plan shall be synchronously updated and the corresponding land and space plan shall be modified in accordance with the statutory procedures.

Article 24 [Adjustment of Protection Tasks] Based on the results of the five-year evaluation of the implementation of the land and space plan and the investigation of the land change, as well as the comprehensive restoration of arable land and ecological fallow, the competent department of natural resources under the State Council shall carry out the adjustment of the protection tasks of the permanent basic farmland of the provinces, autonomous regions, and municipalities in accordance with the provisions of the State Council.

Article 25 [Supervision of Permanent Basic Farmland Protection] If illegal occupation or unreasonable use of permanent basic farmland is found, the national natural resources inspection agency may issue inspection opinion letters to the local people's government under inspection, or make public notifications, interview the responsible persons, or other correction measures in accordance with laws. In case of ineffective rectification, it shall be transferred to the relevant departments for accountability in accordance with the relevant provisions.

Article 26 [Supervision of Occupation, Use, Adjustment, and Replenishment Plan] Based on the assessment of the responsibility system for the protection of arable land and food security, the competent department of natural resources under the State Council, in conjunction with the competent department of agriculture and rural affairs, shall supervise and guide the competent departments of natural resources and agriculture and rural affairs of the people's governments of the provinces, autonomous regions, and municipalities to carry out the work regarding the occupation, adjustment, and replenishment of permanent basic farmland in accordance with the provisions of these measures.

The department in charge of natural resources of the people's governments at or above the county level, together with the department in charge of agriculture and rural areas, shall adopt regulatory measures such as "dual randomization and one public disclosure" to verify the occupation, adjustment, and replenishment of permanent basic farmland.

Article 27 [Responsibility for Illegal Adjustment] In case of violating the provisions of these Measures such as adopting falsehoods or other means to circumvent the approval of occupation of permanent basic farmland, it shall be punished in accordance with the provisions of Article 77 of the Law of the People's Republic of China on Land Administration and Article 57 of the Regulations for the Implementation of the Law of the People's Republic of China on Land Administration.

Article 28 [Correction of Illegal Activities and Violations] Non-agricultural construction that occupies permanent basic farmland shall be confiscated in accordance with Article 77 of the Law of the People's Republic of China on Land Administration and Article 58 of the Regulations for the Implementation of the Law of the People's Republic of China on Land Administration. The competent department of natural resources of the provincial people's government shall issue documents proving that the investigation and handling is in place, implement the responsibility of farmland replenishment, and adjust the red line of the protection of the permanent basic farmland after examination and consent of the competent department of natural resources of the State Council and modify the corresponding land and space plan according to the statutory procedures.

Article 29 [Punishment for Breach of Trust] The competent department of natural resources, together with the relevant department, of the people's government at or above the county level shall take measures to penalize the major breach of trust activities for illegal occupation of permanent basic farmland and disclose the relevant information in accordance with the law.

Article 30 [Implementation Date] These measures shall come into force on xxxx.

END TRANSLATION

Attachments:

No Attachments.