

CN – CHINA

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1. Existence of a practice regarding the handling of deposited microorganisms after the expiration of the period of storage prescribed in Rule 9.1 of the Regulations under the Budapest Treaty

Yes.

2. Description of the practice

The disposal of expired samples of deposited biological materials for patent procedure is regulated in CNIPA Regulations (Order No. 69 of 2015 of the SIPO).

Chapter III Article 18 indicates: Within one year from the expiration of the deposit period specified in Article 9 of these Measures, the patent applicant or patentee may retrieve the deposited biological material or dispose of the biological material through consultation with the depository entity. If the patent applicant or patentee fails to retrieve or dispose of the biological material within the said period, the depository entity shall have the right to dispose of the biological material.

3. Documentation and links

CNIPA Regulations on the Disposal of Expired Samples

Measures on the Deposit of Biological Materials for Patent Procedures (Order No. 69 of 2015 of the SIPO) available at: <https://www.wipo.int/wipolex/en/legislation/details/15695>