

**Measures of Hunan Province to Implement the
Regulations of the People's Republic of China on
Open Government Information**

(Adopted by the 40th Standing Committee of the
Provincial People's Government on
October 27, 2009; Effective January 1, 2010)

Chapter I. General Principles

Article 1. These Measures are formulated in accordance with the Regulations of the People's Republic of China on Open Government Information (hereafter referred to as the Regulations), together with the actual circumstances of Hunan Province.

Article 2. All levels of the people's government should strengthen organizational leadership of open government information work. General offices (and their subordinates) of the people's governments at the county level and above shall be responsible for the promotion, guidance, coordination, and supervision of the administrative area's open government information work.

Departments of the people's governments at the county level and above shall develop open government information work under the uniform guidance, coordination, and supervision of general offices of the people's governments at the same level; departments that implement vertically direct leadership shall develop open government information work under the leadership of the higher level department in charge and the uniform guidance and coordination of the local people's governments; departments that implement dual leadership shall develop open government information work under the leadership of the local people's government, as well as accept the guidance of the higher level department in charge.

All levels of the people's government and departments of the people's government at and above the county level shall appoint an office directly responsible for the routine open government information activities of that level of the people's government and that department, and will conduct performance evaluations of open government information work in tandem with all other operational work.

Article 3. Administrative organs proposing a public release of government information that involves other administrative organs should obtain approval from those administrative organs; if the organs cannot reach a consensus, the administrative organ proposing to release the information must report to the next higher level general office of the people's government to coordinate resolution.

Article 4. When disclosing government information, administrative organs should observe the principles of justice, fairness, and convenience to the people.

The open government information of administrative organs should be truthful and accurate. In the event of the disclosure of false or incomplete government information, relevant organs should, in a timely manner, make clarifications through such means as press conferences and media. When necessary, the same level of the people's government or the department in charge at the next higher level shall be informed of the situation.

Article 5. The release of government information such as that relating to the quality and safety of agricultural commodities, the epidemic situation of major communicable diseases, major animal epidemics, major geographical information and data, and statistical information should observe state laws, administrative regulations, and relevant state provisions.¹

Chapter II. The Scope of Disclosure

Article 6. Administrative organs should, in accordance with their respective responsibilities and the provisions of the Regulations, define the specific scope of open government information disclosed on their own initiative, and compile, publish, and make timely revisions to open government information catalogues and guides.

Open government information catalogues and guides should be scientific, rational, and easy to research.

Higher level administrative organs should strengthen guidance and evaluation of the publication work of the open government information catalogues and guides of their subordinate organs.

Article 7. When administrative organs are formulating or storing government information, they should clarify whether such information should be disclosed, and its disclosure classification.

Regarding applications for the disclosure of government information, if the number of requestors is relatively large, and the administrative organ thinks it may be reclassified as information that is disclosed on the government's own initiative, it may decide to reclassify it as information disclosed on the government's own initiative. However, in cases involving commercial secrets or individual privacy, consent of rightholders should be sought in accordance with the law.

¹ This provision is the same as Paragraph 4 of the State Council General Office Opinions on Various Issues of Implementing the Open Government Information Regulations of the People's Republic of China, Document *Guobanfa* [2008] No. 36, April 29, 2008.

Article 8. When formulating specific administrative decisions, administrative organs should disclose the following information to parties and interested parties in accordance with the law:

- (1) Facts, evidence, bases, and grounds for administrative decisions;
- (2) Specific administrative decisions that have been made;
- (3) Remediation channels for administrative decisions they do not agree with;
- (4) Other information related to parties and concerned parties.

Article 9. When formulating or storing government information, administrative organs should, according to provisions such as the Law of the People's Republic of China for the Protection of State Secrets, investigate whether the release of government information involves state secrets or whether its release would endanger state security, public security economic security and social stability; in cases where such determination cannot be made, administrative organs should request confirmation from the relevant department in charge or the department for safeguarding secrecy at the same level as the administrative organ, which shall announce its decision within 10 business days of the administrative organ's request.

Government information that has been found either to involve state secrets or whose release could endanger national security, public security, economic security or social stability shall not be disclosed; government information whose general content requires public awareness or participation but which contains content that involves state secrets should be released only after undergoing legally prescribed procedures of declassification or redaction of the classified content.

Article 10. When formulating or storing government information, administrative organs should investigate whether the government information involves commercial secrets in accordance with relevant state provisions, such as the Anti-Unfair Competition Law of the People's Republic of China; and investigate whether the government information involves individual privacy in accordance with relevant state provisions, such as the Law of the People's Republic of China on Resident Identity Cards.

In cases where information is found to involve commercial secrets or individual privacy, organs should submit a written request for the rightholder's opinion before a planned release of information; if the rightholder does not agree to disclosure, the information may not be released. However, in cases where the administrative organ believes that non-disclosure will significantly impact the public interest, the information should be released and the rightholders notified, in writing, of both the content of and reasons for disclosure; as stipulated by laws, regulations, and relevant state provisions, rightholders shall be compensated for damages by the responsible administrative organ. Upon evidence that rightholders have received written notice, if the rightholders fail to respond to the notice in a timely manner or to provide a reasonable excuse for failure to respond, it will be regarded as consent to disclosure.

Chapter III. Disclosure Methods

Article 11. Government information to be disclosed on administrative organs' own initiative should be disclosed by means of government gazettes, government websites and press conferences, as well as through newspapers and other publications, radio, television and other methods that make it convenient for the public to be informed, and also set up government information reading places in the state archives and public libraries.

The people's government at and above the county level should use the main government portal Web site and government gazettes as platforms to ensure the consistency of open government information across all levels of the people's government.

Article 12. All organs of the people's government at and above the county level should strengthen construction of a government Internet system with the government portal Web site as the main page and department Web sites as subordinate sites. Lower-level organs of the people's government can establish subordinate Web sites on the government portal Web sites of their parent organs.

Government information disclosed on administrative organs' own initiative must be disclosed both on the portal Web site and the organs' subordinate Web sites; regulatory documents formulated by government departments must be disclosed on the portal Web site of the people's government at the same level.

Online information on the portal Web sites and subordinate Web sites of all levels of the people's government should be renewed in a timely fashion, as well as provide services such as a search, download, and print functions.

Article 13. The people's government at and above the county level should edit government gazettes.

Important government information, such as rules, regulatory documents, major policy decisions and other important government information that should be disclosed on the government's own initiative, that is formulated by the same level of government and its departments within their statutory authority must be disclosed in the government gazette of the same level of people's government.

The government gazette should be distributed free of charge at places such as relevant organs, businesses, state archives, public libraries, and administrative and community service centers.

Township-level offices of the people's government should make use of forums such as public bulletin boards to disclose information.

Article 14. Information that requires widespread dissemination and has an urgent public need-to-know should be disclosed by administrative organs in a timely manner to media outlets such as newspapers and radio and television broadcasters.

Administrative organs should be conveniently available to news media outlets for interviews.

Article 15. Administrative organs should, in a timely manner, hold press conferences for all important government information that has a public need-to-know, such as major natural disasters, accident disasters, public health incidents, and public safety issues.

All administrative organs of the people's government at and above the county level should name designated press spokespersons.

Article 16. All levels of state archives and public libraries shall serve as public information reference locations for the people's governments at the same level.

All administrative organs should, in a timely manner, provide on their own initiative hardcopy and digital versions of open government information to the state archives and public libraries at the same level.

Article 17. Administrative organs should install government information reference stations or facilities, such as reading rooms, materials request stations, or electronic information screens, in their administrative and community service centers. People's governments at the county level and above should gradually position open government information materials, such as catalogues and guides, in public areas such as major commercial areas, hotels, transit stations, ports-of-call, and resident (and villager) committee offices.

Article 18. Administrative organs should hold public information hearings or forums before undertaking major administrative decisions and major law enforcement decisions that affect the public interest.

Draft local regulations, government rules, and other major administrative policy proposals drafted by the government should be disclosed on the government portal Web site to seek the public's opinions.

Article 19. At administrative meetings involving topics that affect vital public interests, administrative organs may make meeting topics, times, and locations public, and may select representatives from among a list of citizens who have registered to observe the meeting, or invite representatives of the public to the meeting.

Chapter IV. Disclosure Procedures

Article 20. An administrative organ is responsible for the disclosure of government information that it produces. The administrative organ that stores information received from citizens, legal persons or other organizations is responsible for

the disclosure of such government information. An administrative organ that supplies government information to another administrative organ that obtains and stores it is responsible for its disclosure; provided that, if the administrative organ undertakes additional processing of the information that it stores, that administrative organ shall be responsible for the disclosure of information. If laws or regulations have different provisions, those provisions shall be followed.

If a department's information is no longer retained due to government organ restructuring, the department taking over the former department's duties is responsible for information disclosure.

Article 21. Government information should be disclosed within 10 business days of its formation, modification, or storage. If disclosure is impossible within 10 business days due to exceptional circumstances, it must be disclosed within a maximum of 20 business days. If laws or regulations have different provisions, those provisions shall be followed.

Article 22. Administrative organs should establish an open government information service window within their office or administrative service area to accept information requests from citizens, legal persons, and other organizations.

Citizens, legal persons, and other organizations may also submit electronic information requests.

Article 23. Administrative organs should publish a standard request form and, for requestors' convenience, make the form available free-of-charge on their own Web site and in their office.

Article 24. Administrative organs should register all information requests.

Administrative organs should notify requestors when their request materials do not comply with requirements; requestors who fail to make corrections within the time limit shall be considered to have withdrawn their request for information.

Administrative organs may not refuse to accept the information requests of citizens, legal persons, or other organizations, require the requestor to use an intermediary, or discriminate against the requestor in any way.

Article 25. When receiving information requests, administrative organs should respond in writing, according to the situation and within the time limits stipulated by the Regulations, responding to information requests on-the-spot whenever possible, and administrative organs may not postpone or refuse to respond:

(1) In cases where the information requested has already been disclosed, the requestor shall be notified of the means or channels through which to obtain the information, or else the information shall be supplied to the requestor directly;

(2) Information that meets the criteria for disclosure but has not yet been disclosed shall be supplied to the requestor, and information therein that should be made public should be disclosed to society in accordance with provisions;

(3) In cases where the information requested may not be disclosed, the requestor shall be notified of the reasons for non-disclosure;

(4) In cases where the administrative organ receiving a request for information is not responsible for disclosing the information or the requested government information does not exist, the requestor shall be notified of the reasons for non-disclosure; if the organ that is responsible for disclosing that government information can be determined, the requestor should be informed of the name of that administrative organ and the method to contact it; in cases where the government information requested was transferred to an archive or an archival work organ prior to implementation of the Regulations, the requestor shall be informed of the name of the archive or archival work organ and the method to contact it.

If the same requestor repeatedly submits disclosure requests to the same administrative organ for the same information, the administrative organ need not repeatedly reply.²

In cases where a request is made for government information that has been primarily formulated by a specific government department, the government may entrust the response to the relevant government department.

Article 26. Administrative organs may not collect fees for open government information requests in violation of the Regulations, and may not require requestors to use paid intermediary organizations or individuals to obtain government information.

Article 27. Citizens, legal persons, or other organizations with evidence that the government information disclosed or stored by an administrative organ is inaccurate may request the administrative organ to correct the information; if the administrative organ does not have the authority to make the correction, the case should be transferred to the administrative organ that does have such authority, and the requester shall be so informed. If the administrative organ does not correct government information that concerns the requestor, the organ should provide written notice of the reasons to the requestor, and should append a notation to that information setting forth the information the requestor believes to be true, including reasons and evidence.

Administrative organs should handle requests for correction by citizens, legal persons, or other organizations on-the-spot. If the organ cannot handle the matter on-the-

² This language is identical to Paragraph 13 of the State Council General Office Opinions on Various Issues of Implementing the Open Government Information Regulations of the People's Republic of China, Document *Guobanfa* [2008] No. 36, April 29, 2008.

spot, the request shall be handled within a maximum of 10 business days, with a written notice to the requestor.

Chapter V. Supervision and Safeguards

Article 28. The open government information work office of the Provincial People's Government shall establish a government information statistics system.

Article 29. Administrative organs should compile their own annual open government information reports and publish them on the portal Web site of the people's government at their own level, their department Web sites and pages, and other media by March 31 of the following year.

Annual open government information reports of departments of the people's governments at the county level and above should be filed for the record with the general office of the people's government at the same level not later than March 10 of the following year.

Article 30. If a citizen, legal person or other organization believes an administrative organ is not executing its open government information duties according to the law, a complaint may be made to the supervision organ or government general office at the same level. The organ receiving the complaint should investigate and respond, in writing, to the complainant within 20 days. If the complainant does not agree with the handling, it may appeal to the next higher administrative organ, supervisory organ, or government general office, which shall investigate and respond, in writing, to the complainant within 20 days.

Article 31. If citizens, legal persons or other organizations believe a specific administrative action of an administrative organ in its open government information work has infringed their lawful rights and interests, they may, in accordance with the law, apply for administrative reconsideration or file an administrative lawsuit.

Article 32. Administrative organs that violate the provisions of these Measures shall be punished according to the Regulations.

Article 33. All levels of people's government and people's government departments at the county level and above should provide for all necessary open government information work expenses in their financial budgets.

Chapter VI. Supplementary Measures

Article 34. These Measures shall apply the provisions on administrative organs to the open government information work of authorized organizations.

Article 35. Public enterprises and institutions that are closely related to the people's interests such as education, medical care, family planning, culture, water supply, electricity supply, gas supply, heating, environmental protection, public transportation, electronic communications, the postal service, finance, public security, and agricultural services, should, according to these Measures, disclose information of their own initiative about fees, prices, and other information related to the vital interests of the public and the concerns of society at large.

Citizens, legal persons, and other organizations may request relevant information from institutions from any of the sectors stipulated above.

Article 36. Villagers' (and residents') committees shall assist relevant administrative organs to disclose the following types of open government information through community forums such as bulletin boards, meetings, and public broadcasts:

- (1) Agricultural items subject to fees and the legal basis and standards therefor;
- (2) The extension of public aid, such as minimum living security, cooperative medical subsidies, peasant grain subsidies, and disaster relief funds;
- (3) Grain commodity price protections;
- (4) Public health policies;
- (5) Enforcement of family planning;
- (6) The appropriation and requisition of land and the use and distribution of compensation;
- (7) Other government information that should be disclosed.

Article 37. These Measures shall go into effect as of January 1, 2010.