

Regulations on Procedures for the Formulation of Administrative Regulations

(Promulgated by Decree No. 321 of the State Council of the People's Republic of China on November 16, 2001, and Revised pursuant to the Decision of the State Council on Revising the Regulations on Procedures for the Formulation of Administrative Regulations dated December 22, 2017, and effective as of May 1, 2018)¹

Chapter I General Provisions

Article 1. These Regulations are formulated in accordance with the relevant provisions of the Constitution, the Legislation Law and the Organic Law of the State Council to standardize the procedures for formulating administrative regulations and to ensure the quality of administrative regulations.

Article 2. These Regulations apply to the project establishment, drafting, examination, decision on, promulgation and interpretation of administrative regulations.

Article 3. The formulation of administrative regulations shall implement the [Chinese Communist] Party's line, principles, policies, decisions and plans,² conform to the provisions of the Constitution and laws, and comply with the legislative principles established by the Legislation Law.

Article 4. The formulation of administrative regulations that support laws having a political aspect shall be reported promptly, in accordance with provisions, to the Party Central Committee.

When formulating important administrative regulations on major systems and major policy adjustments in such areas as the economy, culture, society and ecological civilization, the draft or the major issues involved in the draft administrative regulations shall be reported promptly, in accordance with provisions, to the Party Central Committee.

Article 5. Administrative regulations are normally entitled "regulations,"³ and they may also be entitled "provisions,"⁴ "measures,"⁵ etc. The administrative regulations that the State Council formulates in accordance with the authorization decisions of the National People's Congress or its Standing Committee are entitled "interim regulations" or "interim provisions."

¹ This English translation is based on the official translation of the 2001 Regulations on Procedures for the Formulation of Administrative Regulations available at: http://english.gov.cn/laws/2005-08/24/content_25827.htm and http://www.npc.gov.cn/englishnpc/Law/2007-12/14/content_1384236.htm.

² Translation in English version of 19th National Party Congress Report of 党的路线方针政策和决策部署.

³ 条例

⁴ 规定

⁵ 办法

Neither the rules formulated by the departments of the State Council nor the rules formulated by the local people's governments may be entitled "regulations."

Article 6. Administrative regulations shall be detailed but not verbose, logically tight and operable with their articles clear and concrete, and their wording accurate and concise.

Administrative regulations may, as required by the contents, be arranged into chapters, sections, articles, paragraphs, items and sub-items. The serial numbers of chapters, sections and articles shall be indicated by Chinese numerals sequentially, paragraphs shall not be numbered, the serial numbers of items shall be indicated by Chinese numerals in parentheses sequentially, and the serial numbers of sub-items shall be indicated by Arabic numerals sequentially.

Chapter II Project Establishment

Article 7. The State Council shall prepare an annual legislative work plan at the beginning of each year.

Article 8. Where the relevant departments of the State Council deem that there is a need to formulate administrative regulations, they shall submit an application to the State Council for the administrative regulation project establishment prior to the preparation of the annual legislative work plan of the State Council.

The applications for the project establishment of administrative regulations submitted by the relevant departments of the State Council shall state the main issues to be solved by such legislative projects, the Party line, principles, policies, decisions and plans that such projects are based on and the main systems to be established by such projects.

The legislative affairs department of the State Council shall publicly solicit proposals from society for administrative regulation formulation projects.

Article 9. The legislative affairs department of the State Council shall, based on the overall State work plan and focusing on the key points and overall considerations, carry out assessment and appraisal⁶ of the applications for project establishment of administrative regulations and the proposals for administrative regulation formulation projects that were publicly solicited, draft the annual legislative work plan of the State Council, submit the proposed plan to the Party Central Committee and the State Council, and publish it to society after approval.

The projects of administrative regulations that are established in the annual legislative work plan of the State Council shall meet the following requirements:

(1) they implement the Party's line, principles, policies, decisions and plans and meet the needs of reform, development and stability;

(2) the relevant reform experience is basically ripe; and

⁶ 论证; see Art. 13, SCOLA translation

(3) the issues to be solved are within the scope of the powers of the State Council and require the formulation of administrative regulations by the State Council.

Article 10. With respect to the projects of administrative regulations established in the annual legislative work plan of the State Council, the departments charged with the drafting of them shall lose no time in doing so, and submit the drafts to the State Council as required; they shall communicate with the legislative affairs department of the State Council prior to submitting the drafts to the State Council.

The legislative affairs department of the State Council should, in a timely manner, keep abreast of the situation of the implementation of the annual legislative work plan of the State Council by various departments under the State Council and strengthen organization and coordination, supervision and guidance.

The annual legislative work plan of the State Council may, in light of the actual conditions, be adjusted in the course of its implementation.

Chapter III Drafting

Article 11. The drafting of administrative regulations shall be organized by the State Council. The annual legislative work plan of the State Council may assign one department or several departments of the State Council to draft administrative regulations or assign the legislative affairs department of the State Council to conduct or organize such drafting.

Article 12. The drafting of administrative regulations shall comply with the provisions of Articles 3 and Article 4 of these Regulations, in addition to meeting the following requirements:

(1) carrying forward the socialist core values;

(2) embodying the spirit of comprehensively deepening reform, scientifically regulating administrative acts, and promoting the transformation of government functions towards macro-control, market regulation, social management, public service and environmental protection;

(3) conforming to the principle of simplification, unification and efficiency, assigning identical or similar functions to one administrative department, and simplifying administrative formalities;

(4) safeguarding the lawful rights and interests of citizens, legal persons and other organizations in real earnest, and while prescribing the obligations they ought to perform, providing their corresponding rights and the means by which the realization of these rights are guaranteed;

(5) embodying the principle of uniting the powers and responsibilities of administrative departments, and while vesting necessary powers in relevant administrative departments,

providing the conditions, procedures whereby they exercise their powers and the responsibilities they shall undertake.

Article 13. In drafting administrative regulations, the drafting departments should conduct in-depth investigations and research, sum up the practical experience, and extensively listen to the opinions of the relevant organs, organizations and citizens. Drafts involving heated or difficult issues of widespread concern to the general public, prominent contradictions encountered in economic and social development, the impairment of rights or increased obligations of citizens, legal persons and other organizations, and major interest adjustments having a significant influence on the public should undergo appraisal and consultation.⁷ Listening to opinions may take such forms as forums, appraisal meetings⁸ and hearings, etc.

When drafting administrative regulations, the drafting department shall publish the draft of the administrative regulation and its explanation, etc., to solicit opinions from society, except when the State Council decides not to publish the draft. The time limit for publicly soliciting opinions from society shall generally not be less than 30 days.

When drafting administrative regulations that are highly specialized, drafting departments may invite experts in the relevant field to participate in the drafting work, or entrust relevant experts, academic and research institutes and social organizations to do the drafting.

Article 14. In drafting administrative regulations, a drafting department shall fully consult with other departments on the provisions that involve their powers and responsibilities or the provisions that are closely related to them, and where they involve policies on departmental division of labor, administrative licensing, financial support and tax preferences, the drafting department should obtain the approval of the organization, finance, taxation and other related departments.

Article 15. In drafting administrative regulations, a drafting department shall put forward solutions to the major issues that involve relevant administrative systems, guidelines and policies, etc. and require to be decided by the State Council, and submit such solutions to the State Council for decision.

Article 16. An administrative regulation draft for examination (hereafter referred to as the **administrative regulation draft for examination**) to be submitted by a drafting department shall be signed by the principal responsible person of the drafting department.

If a draft administrative regulation involves joint responsibilities of several departments and needs to be drafted jointly, it should be drafted together, and after consensus is reached the administrative regulation draft for examination should be jointly submitted for review and approval. An administrative regulation draft for examination jointly drafted by several departments shall be jointly signed by the principal responsible persons of the said departments.

⁷ 论证咨询

⁸ 论证会

Article 17. When submitting an administrative regulation draft for examination to the State Council for examination, the drafting department shall simultaneously submit the explanations thereof and relevant materials.

The explanations of an administrative regulation draft for examination shall state the necessity of the legislation, the main ideas,⁹ the main systems to be established, the situation regarding soliciting opinions from relevant organs, organizations and citizens, the differing opinions from various circles on the main issues in the draft for examination and how they were coordinated and dealt with, and the situation regarding such matters as intended establishment, cancellation or adjustment of administrative licenses and administrative coercion. The relevant materials shall mainly include the actual situation and related data on the regulated areas, the main problems in practice, pertinent legislative materials from both home and abroad, reports of investigations and research, observation reports, etc.

Chapter IV Examination

Article 18. The legislative affairs department of the State Council is responsible for examination of administrative regulation drafts for examination submitted to the State Council.

The legislative affairs department of the State Council shall examine drafts for examination mainly in the following aspects:

(1) whether they strictly implement the Party's line, principles, policies, decisions and plans, whether they conform to the provisions of the Constitution and laws, and whether they comply with the legislative principles established by the Legislation Law;

(2) whether they conform to the provisions in Article 12 of these Regulations;

(3) whether they are in harmony with, or dovetailed with the relevant administrative regulations;

(4) whether they have correctly handled the opinions of relevant organs, organizations and citizens on the drafts for examination; and

(5) other items that require examination.

Article 19. Where a draft for examination falls under one of the following circumstances, the legislative affairs department of the State Council may table the examination thereof or return it to the drafting department:

(1) the basic conditions for the formulation of the administrative regulations are not ripe or have undergone a major change;

⁹ 主要思路

(2) the relevant departments hold substantive disagreement with one another on the main systems provided for in the draft for examination, and the drafting department has not yet obtained agreement from the organization, finance, tax and other related departments;

(3) the drafting department failed to solicit opinions publicly in accordance with the relevant provisions of these Regulations; or

(4) the submission of the draft for examination does not conform to the provisions in Articles 15, 16 and 17 of these Regulations.

Article 20. The legislative affairs department of the State Council shall send drafts for examination or the main issues involved in the drafts for examination to various circles such as the relevant departments of the State Council, local people's governments, and relevant organizations and experts for comments. The relevant departments of the State Council and the local people's governments shall provide written feedback opinions within the stipulated time limit and stamp them with the official seals of their respective units or the seals of the (general) offices of their respective units.

The legislative affairs department of the State Council may publish an administrative regulation draft for examination or a revised draft, together with its explanation, etc. to solicit opinions from society. The time limit for soliciting opinions from society shall generally not be less than 30 days.

Article 21. The legislative affairs department of the State Council shall conduct on-the-spot investigations and research on the main issues that administrative regulation drafts for examination involve at the grassroots level, and solicit opinions from the relevant organs, organizations and citizens at the grassroots level.

Article 22. Where an administrative regulation draft for examination involves the adjustment of major interests, the legislative affairs department of the State Council shall conduct appraisal and consultation and broadly listen to the opinions of relevant circles. Appraisal and consultation may take forms such as forums, appraisal meetings, hearings and entrusted research.

Where an administrative regulation draft for examination involves the adjustment of major interests or if major differences of opinion exist, if the draft has a relatively great impact on the rights and obligations of citizens, legal persons or other organizations, or if the people are widely concerned about it, the legislative affairs department of the State Council may hold hearings to solicit opinions from the relevant organs, organizations and citizens.

Article 23. Where relevant departments of the State Council disagree with one another on such issues as the main systems, guidelines and policies, administrative systems and the division of powers involved in an administrative regulation draft for examination, the legislative affairs department of the State Council shall coordinate among them to promote reaching a consensus. When there is relatively great controversy concerning important legislative matters, the

legislative affairs department of the State Council may entrust relevant experts, academic and research institutes and social organizations to carry out assessment.

Where a consensus cannot be reached after full coordination, the legislative affairs department of the State Council and the drafting departments shall promptly submit the major controversial issues, the opinions of the relevant departments and the opinions of the legislative affairs department of the State Council to the leaders of the State Council for coordination or submit them to the State Council for decision.

Article 24. The legislative affairs department of the State Council shall study the comments from various circles and, after consulting with the drafting departments, it shall revise the administrative regulation drafts for examination and prepare the administrative regulation drafts and explanations thereof.

Article 25. The principle responsible person of the legislative affairs department of the State Council shall put forward a suggestion that an administrative regulation draft be submitted to the Executive Meeting of the State Council for deliberation. With regard to an administrative regulation draft that regulates a single area of administration and over which there exists a consensus among various circles, or a draft of the supporting administrative regulations formulated based on a law, a circulatory approval method may be adopted and the legislative affairs department of the State Council may submit it directly to the State Council for examination and approval.

Chapter V Decision and Promulgation

Article 26. The administrative regulation drafts shall be deliberated at the Executive Meetings of the State Council, or be examined and approved by the State Council.

When an administrative regulation draft is deliberated at the Executive Meetings of the State Council, explanations shall be made by the legislative affairs department of the State Council or by the drafting departments.

Article 27. The legislative affairs department of the State Council shall, in accordance with the deliberation opinions of the State Council on an administrative regulation draft, revise the administrative regulation draft and prepare the revised administrative regulation draft, and submit to the Premier of the State Council for the signing of State Council decrees to promulgate it for implementation.

The effective date of administrative regulations shall be specified in the State Council decree signed by the Premier for promulgation.

Article 28. Administrative regulations that have been signed and promulgated shall be promptly published in the State Council Gazette and on the Chinese government legal system information website, as well as in newspapers of nation-wide distribution. The legislative affairs department of the State Council shall promptly compile and publish the national official texts of administrative regulations.

The texts of administrative regulations that are published in the State Council Gazette shall be the authentic texts.

Article 29. Administrative regulations shall take effect after 30 days from the date of promulgation; however, administrative regulations that involve national security, the determination of foreign exchange rates or monetary policies as well as those that the implementation of which will be impeded if they are not implemented promptly may take effect on the dates of promulgation.

Article 30. Administrative regulations shall, within 30 days after their promulgation, be submitted by the General Office of the State Council to the Standing Committee of the National People's Congress for the record.

Chapter VI Interpretation of Administrative Regulations

Article 31. The State Council shall interpret administrative regulations in any of the following circumstances:

(1) where the specific meaning of provisions of administrative regulations needs to be further clarified; or

(2) where the emergence of new circumstances after formulation of administrative regulations requires clarification of their applicable basis.

The legislative affairs department of the State Council shall study and draft interpretations of administrative regulations and submit them to the State Council for approval and, after being approved, the interpretations of administrative regulations shall be promulgated either by the State Council itself or by the relevant departments of the State Council with the authorization of the State Council.

Interpretations of administrative regulations have the same effect as the administrative regulations themselves.

Article 32. The departments of the State Council and the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government may request the State Council to make interpretations of administrative regulations.

Article 33. Where the legislative affairs departments of the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government as well as the legislative affairs institutions of the departments of the State Council request the legislative affairs department of the State Council to interpret the issues on the application of administrative regulations in actual administrative work, the legislative affairs department of the State Council may study the cases and reply on its own; with regard to those involving major issues, the legislative affairs department of the State Council shall put forward its proposals and make replies after submitting such proposals to and obtaining an approval by the State Council.

Chapter VII Supplementary Provisions

Article 34. The drafting of the drafts of laws to be submitted by the State Council to the National People's Congress or its Standing Committee for deliberation shall be handled with reference to the relevant provisions of these Regulations.

Article 35. The State Council may, on the basis of comprehensively deepening reform and the needs of economic and social development, decide to temporarily adjust or temporarily suspend the application of some of the provisions of administrative regulations concerning specific issues of administrative management in some places within a certain period of time.

Article 36. The legislative affairs department of the State Council or relevant departments under the State Council should promptly organize the cleanup¹⁰ of administrative regulations based on the requirements of comprehensively deepening reform and economic and social development, as well as the provisions of superior law. Administrative regulations that do not meet the requirements of comprehensively deepening reform and economic and social development or do not comply with the provisions of superior law should be promptly revised or repealed.

Article 37. The legislative affairs department of the State Council or relevant departments under the State Council may organize the post-legislative assessment of administrative regulations or relevant provisions of administrative regulations and use the assessment results as an important reference for revising or repealing relevant administrative regulations.

Article 38. The relevant provisions of these Regulations shall apply to the procedures for revising and repealing administrative regulations.

The revision or repeal of administrative regulations shall be promptly promulgated.

Article 39. The official translations and ethnic group language texts of administrative regulations shall be verified and finalized by the legislative affairs department of the State Council.

Article 40. These Regulations shall be effective as of January 1, 2002. The Interim Regulations on Procedures for Formulating Administrative Regulations promulgated by the General Office of the State Council upon approval of the State Council on April 21, 1987 shall be repealed simultaneously.

¹⁰ 清理