

Regulations on Procedures for the Formulation of Rules

(Promulgated by Decree No. 322 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 Rules 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 Legislation Law to standardize the procedures for the formulation of rules and to ensure the quality of rules.

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

Rules formulated in violation of these Regulations are null and void.

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

Without a basis in law or State Council administrative regulations, decisions and orders, departmental rules may not set norms that impair the rights of citizens, legal persons and other organizations or increase their obligations, and may not increase the powers or reduce the statutory duties of the department. Without a basis in law, administrative regulations or local regulations,³ local government rules may not set norms that impair the rights of citizens, legal persons and other organizations or increase their obligations.

Article 4. The formulation of rules that support laws having a political aspect shall be reported promptly, in accordance with provisions, to the Party Central Committee or the party committee (party organization) at the same level.

¹ This English translation referred to the official translation of the somewhat similar 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 Adopted by local people's congresses, and a higher level of legislation than rules.

The formulation of rules having a major economic or social aspect shall be reported promptly, in accordance with provisions, to the party committee (party organization) at the same level.

Article 5. The formulation of rules shall effectively safeguard the lawful rights and interests of citizens, legal persons and other organizations and, while prescribing the obligations they should perform, provide the corresponding rights they have and the means by which the realization of such rights are safeguarded.

The formulation of rules shall embody the principle of uniting the powers and responsibilities of administrative organs and, while vesting necessary powers in the relevant administrative organs, provide the conditions and procedures for executing such powers, as well as responsibilities they shall undertake.

Article 6. The formulation of rules shall embody the spirit of comprehensively deepening reform, scientifically regulate administrative acts, and promote the shift of government functions towards such aspects as macro-control, market regulation, social management, public services and environmental protection.

The formulation of rules shall conform to the principles of simplification, unification and efficiency, assign identical or similar functions to one administrative department, and simplify administrative formalities.

Article 7. Rules are normally entitled “provisions”⁴ or “measures,”⁵ but they may not be entitled “regulations.”⁶

Article 8. The wording of rules shall be accurate and concise with the contents of their articles clear, concrete and operable.

In principle, the matters that have been clearly stipulated in laws or regulations shall not be redundantly provided in rules.⁷

Rules shall not, in principle be arranged into chapters or sections, except for rules that are complex in content.

Article 9. With regard to matters that involve the powers of two or more departments of the State Council, and for which the conditions for formulating administrative regulations are not yet ripe and it is necessary to formulate rules, the relevant departments of the State Council shall jointly formulate the rules.

Under the circumstances provided in the preceding paragraph, the rules formulated by relevant departments of the State Council on their own are null and void.

⁴ 规定

⁵ 办法

⁶ 条例

⁷ 法规, probably referring to both State Council administrative regulations and local people’s congress regulations.

Chapter II Project Establishment

Article 10. The internal agencies and other agencies of departments of the State Council shall submit an application to such departments for project establishment when they deem that there is a need to formulate departmental rules.

The subordinate working departments of the people's governments of the provinces, autonomous regions, municipalities directly under the Central Government and cities divided into districts or the people's governments at lower levels shall apply to the people's governments of the provinces, autonomous regions, municipalities directly under the Central Government or the cities divided into districts for project establishment when they deem that there is a need to formulate local government rules.

Departments of the State Council and the people's governments of the provinces, autonomous regions, municipalities directly under the Central Government and cities divided into districts, and autonomous prefectures may publicly solicit suggestions from society for rule formulation projects.

Article 11. The necessity for formulating rules, the major issues to be solved and main systems to be established shall be stated in the applications submitted for the formulation of rules project establishment.

Article 12. The legislative affairs offices of the departments of the State Council and the legislative affairs offices of the people's governments of the provinces, autonomous regions, municipalities directly under the Central Government and cities divided into districts, and autonomous prefectures (hereinafter referred to as **legislative affairs offices**) shall carry out assessment and appraisal of the applications for formulation of rules project establishment and the proposals for rule formulation projects that were publicly solicited, draft their own departmental or local people's government annual work plans for formulating rules, and submit such plans to their own departments or the people's governments at the same level and publish them to society after approval.

The titles of the rules to be formulated, the drafting units, and the time for completion of drafting should be clearly provided in the annual work plans for formulating rules.

Article 13. The departments of the State Council and the people's governments of the provinces, autonomous regions, municipalities directly under the Central Government and cities divided into districts, and autonomous prefectures shall strengthen leadership over the implementation of their annual work plans for formulating rules. The units charged with drafting the rules in the annual work plans for formulating rules shall lose no time in doing so, and submit the draft rules to their own departments or the people's governments at the same levels for decision as required.

The legislative affairs offices should, in a timely manner, keep abreast of the situation of the implementation of the annual work plans for formulating rules of their own departments or

people's government at the same level and strengthen organization and coordination, supervision and guidance.

An annual work plan for formulating rules may, in light of actual conditions, be adjusted in the course of its implementation, and additional appraisals shall be carried out for rules projects to be added.

Chapter III Drafting

Article 14. The drafting of departmental rules shall be organized by the departments of the State Council; the drafting of local government rules shall be organized by the people's governments of the provinces, autonomous regions, municipalities directly under the Central Government, cities divided into districts, and autonomous prefectures.

A department of the State Council may assign one or several of its internal agencies to draft rules, or assign its legislative affairs office to conduct or organize such drafting.

The people's government of a province, an autonomous region, a municipality directly under the Central Government, city divided into districts, or autonomous prefecture may assign one or several of its departments to draft rules, or assign its legislative affairs office to conduct or organize such drafting.

Article 15. In drafting rules, in-depth investigations and research shall be conducted, practical experience shall be summed up, and the opinions of relevant organs, organizations and citizens shall be extensively listened to. Listening to opinions may take the forms of written solicitation of opinions, forums, appraisal meetings and hearings, etc.

In drafting rules, drafting units shall publish the draft of the rule and its explanation, etc. to solicit opinions from society, except for those required to be kept secret in accordance with law. The time limit for publicly soliciting opinions from society shall generally not be less than 30 days.

In drafting rules that are highly specialized, drafting units 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 16. When the rules being drafted involve 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, the drafting units should conduct appraisal and consultation, and extensively listen to opinions from relevant circles.

When the rules being drafted involve interest adjustments or there exist major differences of opinion, have a relatively great influence on the rights and obligations of citizens, legal persons or other organizations, are of widespread concern to the people, or require holding a

hearing, the drafting unit shall hold a hearing to listen to opinions. A hearing shall be organized in accordance with the following procedures:

(1) a hearing shall be open to the public, and the drafting unit shall publish the time, venue for, and contents of the hearing 30 days before the hearing is held;

(2) the relevant organs, organizations and citizens that participate in a hearing shall have the right to put forward questions and express their opinions with respect to the rules being drafted;

(3) a written record of the hearing shall be made to faithfully record the speakers' main viewpoints and reasons; and

(4) the drafting unit shall seriously study the opinions reflected at the hearing, and explain the handling of these opinions and the reasons therefor at the time the draft rule is submitted for examination.

Article 17. When drafting departmental rules that involve the powers and responsibilities of other departments of the State Council or are closely related to other departments of the State Council, a drafting unit shall fully solicit the comments of these departments.

When drafting local government rules that involve the powers and responsibilities of other departments of the people's government at the same level or are closely related to other departments at the same level, a drafting unit shall fully solicit the comments of these departments. A drafting unit shall fully consult with other departments that disagree with its opinions; where a consensus cannot be reached after full consultations, the drafting unit shall explain the circumstances of and reasons for such failure of consensus when it submits the draft rule for examination (hereinafter referred to as the **draft rule for examination**)

Article 18. A drafting unit shall, in accordance with provisions, submit the draft rule for examination and the explanation thereof, the differing opinions on the major issues therein and other relevant materials for examination.

A draft rule for examination submitted for examination shall be signed by the principal responsible person of the drafting unit; a draft rule for examination jointly drafted by several drafting units shall be jointed signed by the principal responsible persons of the said units.

The explanation of a draft rule for examination shall state the necessity for formulating the rule, the main measures provided therein, the opinions of relevant circles and how they were coordinated and dealt with.

The relevant materials mainly include the actual situation of the regulated fields and related data, the main problems in practice, the opinions collected from various circles, written hearing records, investigation and research reports and relevant legislative materials from both at home and abroad, etc.

Chapter IV Examination

Article 19. The legislative affairs offices shall be responsible for uniformly examining draft rules for examination. Legislative affairs offices shall examine drafts for examination mainly from the following aspects:

- (1) whether they are in conformity with the provisions in Articles 3, 4, 5 and 6 of these Regulations;
- (2) whether they are in conformity with the requirements of the socialist core values;
- (3) whether they are coordinated or in harmony with relevant rules;
- (4) whether the opinions of the relevant organs, organizations and citizens on the main issues addressed in the draft rule for examination have been correctly handled;
- (5) whether they conform to the technical requirements of legislation; and
- (6) other items that need to be examined.

Article 20. Where a draft rule for examination fall under one of the following circumstances, the legislative affairs office may table the examination thereof or return it to the original drafting unit:

- (1) the basic conditions for formulating the rule are not yet ripe or have undergone a major change;
- (2) the relevant agencies or departments hold substantive disagreements with one another on the main systems provided in the draft rule for examination, and the drafting unit has not fully consulted with these agencies or departments;
- (3) the drafting unit 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 Article 18 of these Regulations.

Article 21. Legislative affairs offices shall send draft rules for examination or the main issues involved in the draft rules for examination to relevant organs, organizations and experts to solicit their opinions.

Legislative affairs offices may publish a draft rule 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 22. Legislative affairs offices shall conduct on-the-spot investigations and research at the grassroots level into the main issues involved in the draft rules for examination and solicit the opinions of relevant organs, organizations and citizens at the grassroots level.

Article 23. Where a draft rule for examination involves adjustment of major interests, the legislative affairs office 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 a draft rule 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, and if the drafting unit did not hold a hearing during its drafting process, the legislative affairs office may, upon approval by its department or the people's government at the same level, hold a hearing. If a hearing is held, it shall be organized in accordance with the procedures provided in Article 16 of these Regulations.

Article 24. Where the relevant agencies or departments disagree with one another on issues involved in a draft rule for examination, such as the main measures, administrative systems and the division of powers, the legislative affairs office shall coordinate among these agencies or departments to promote reaching a consensus. When there is relatively great controversy concerning important legislative matters, the legislative affairs office 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 office shall promptly submit the main issues, the opinions of the agencies or departments and the opinions of the legislative affairs office to the leaders of its own department or the people's government at the same level for coordination, or submit them to its own department or the people's government at the same level for decision.

Article 25. Legislative affairs offices shall seriously study the comments from various circles and, upon consultation with the drafting unit, revise the draft rule for examination, and prepare the draft rules and the explanation thereof. The explanation of draft rules shall include the main issues to be solved and the main measures to be established by the formulation of the rule, as well as the circumstances concerning coordination with relevant departments.

A draft rule and its explanation shall be signed by the principal responsible person of the legislative affairs office, who shall put forward a proposal that the draft rule and its explanation be submitted to the relevant meeting of its own department or the people's government at the same level for deliberation.

Article 26. A draft rule the drafting of which is conducted or organized by a legislative affairs office shall be signed by the principal responsible person of said legislative affairs office, who shall put forward a proposal that the draft rule and its explanation be submitted to the relevant meeting of its own department or the people's government at the same level for deliberation.

Chapter V Decision and Promulgation

Article 27. Departmental rules shall be decided at ministerial meetings or general meetings of commissions.

Local government rules shall be decided at the executive meetings or the plenary meetings of local governments.

Article 28. When a draft rule is being deliberated, the legislative affairs office shall make the explanation, and the drafting unit may also make the explanation.

Article 29. The legislative affairs office shall, on the basis of the deliberation opinions of the relevant meetings, revise the draft rule, prepare the revised draft of the rule, and submit it respectively to the departmental head or the provincial governor, the chairperson of the autonomous region, the mayor or the head of the autonomous prefecture to sign the decree promulgating the rule.

Article 30. The decree promulgating a rule shall specify the formulating organ, the serial number, the title of the rule, the date of adoption, the date of implementation, the signature of the respective departmental head or provincial governor, chairperson of the autonomous region, the mayor or head of the autonomous prefecture, and the date of promulgation.

Rules formulated jointly by several departments shall be signed jointly for promulgation by the heads of the relevant departments, and the decree serial number of the lead department shall be used.

Article 31. Departmental rules shall, upon signature for promulgation, be promptly published in in the State Council Gazette or in the departmental gazette and on the Chinese government legal system information website, as well as in newspapers of nation-wide distribution.

Local government rules shall, upon signature for promulgation, be promptly published in the gazette of the people's government at the same level and on the Chinese government legal system information website, as well as in newspapers distributed within their respective administrative areas.

The text of the rules that are published in the State Council Gazette or in the departmental gazette departmental gazette and in the local people's government gazette shall be the authentic text.

Article 32. Rules shall be effective 30 days after the date of promulgation; however, rules that involve national security or the determination of foreign exchange rates or monetary policies, as well as those the implementation of which will be impeded if they are not implemented promptly, may be effective as of the dates of promulgation.

Chapter VI Interpretation and Filing for the Record

Article 33. The power to interpret rules belongs to the organs that formulate the rules.

The formulating organs shall interpret rules that fall under one of the following circumstances:

- (1) where the specific meaning of provisions of rules need to be further clarified; or
- (2) where the emergence of new circumstances after formulation of the rules requires clarification of their applicable basis.

Interpretations of rules shall be proposed by the legislative affairs offices of the formulating organs with reference to the procedures for the examination of draft rules for examination, and they shall be promulgated after submission to and approval by the formulating organs.

Interpretations of rules have the same effect as the rules themselves.

Article 34. Rules shall, within 30 days of the date of promulgation, be submitted by the legislative affairs offices in accordance with the provisions of the Legislation Law and the Regulations on Filing Regulations and Rules for the Record to the relevant organs for the record.

Article 35. State organs, social groups, enterprises, institutions, organizations and citizens that deem that rules conflict with laws or administrative regulations may put forward written suggestions for re-examination to the State Council, and such suggestions shall be studied by the legislative affairs department of the State Council, which shall put forward opinions on handling the matter, and it shall be dealt with pursuant to provisions.

State organs, social groups, enterprises, institutions, organizations and citizens that deem that rules of the people's government of cities divided into districts or autonomous prefectures conflict with laws or administrative regulations or violate the provisions of other superior laws, may also put forward written suggestions for re-examination to the people's governments of their respective provinces or autonomous regions, and such suggestions shall be studied by the legislative affairs offices of the people's governments of the provinces or autonomous regions, which shall put forward opinions on handling the matter, and it shall be dealt with pursuant to provisions.

Chapter VII Supplementary Provisions

Article 36. Decisions or orders with general binding force to be formulated or issued by the local people's governments at or above the county level that, according to law, do not have the power to formulate rules shall be made or issued with reference to the procedures provided in these Regulations.

Article 37. The departments of the State Council and the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government, cities divided into districts and autonomous prefectures should promptly organize the cleanup⁸ of rules based on the requirements of comprehensively deepening reform and economic and social development, as well as the provisions of superior law. Rules 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 38. The departments of the State Council and the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government, cities divided into districts and autonomous prefectures may organize the post-legislative assessment of rules or relevant provisions of rules and use the assessment results as an important reference for revising or repealing relevant rules.

Article 39. The relevant provisions of these Regulations shall apply to the procedures for the revision and repeal of rules.

The revision or repeal of rules shall be promptly promulgated.

Article 40. The editing and publication of the collections of rules in official editions, in the languages of ethnic groups and in foreign languages shall be handled by legislative affairs offices in accordance with the relevant provisions of the Provisions on the Administration of Editing and Publication of Collections of Regulations.

Article 41. These Regulations shall be effective as of January 1, 2002.

⁸ 清理