

湖南省行政程序规定中英文对照全文

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湖南省行政程序规定

Hunan Provincial Administrative Procedure Provisions

湖南省人民政府令 第 222 号

Decree No. 222 of the People's Government of
Hunan Province

《湖南省行政程序规定》已经
2008年4月9日省人民政府第4
次常务会议通过，现予公布，自
2008年10月1日起施行。

The Hunan Provincial Administrative
Procedure Provisions are adopted on April 9,
2008 at the 4th Executive Meeting of the
Provincial People's Government and are hereby
promulgated and shall be implemented as of
October 1, 2008.

省长 周强

Governor

Zhou Qiang,

2008年4月17日

April 17, 2008

第一章 总则

Chapter I. General Provisions

第一条为了规范行政行为，促进行政
机关合法、公正、高效行使行政职
权，保障公民、法人或者其他组织的
合法权益，推进依法行政，建设法治
政府，根据宪法和有关法律法规，结
合本省实际，制定本规定。

Article 1. For the purposes of regulating
administrative procedures, ensuring the exercise
of administrative power by administrative
organs in a lawful, fair, and highly efficient
way, safeguarding the lawful rights and
interests of citizens, legal persons and other
organizations, promoting administration in
accordance with the law, and constructing a rule
of law government, these Provisions are
formulated in accordance with the Constitution
and relevant laws and regulations, and in line
with the actual situation of Hunan Province.

第二条本省行政机关，法律、法
规授权的组织和依法受委托的组

Article 2. These Provisions shall apply to
administrative organs, organizations authorized

组织行使行政职权，应当遵守本规定。

法律、法规对行政程序另有规定的，从其规定。

第三条行政机关应当依照法律、法规、规章，在法定权限内，按照法定程序实施行政行为。

第四条行政机关应当平等对待公民、法人或者其他组织，不得歧视。

行政机关行使裁量权应当符合立法目的和原则，采取的措施应当必要、适当；行政机关实施行政管理可以采用多种措施实现行政目的的，应当选择有利于最大程度地保护公民、法人或者其他组织权益的措施。

第五条行政机关应当将行使行政职权的依据、过程和结果向公民、法人或者其他组织公开，涉及国家秘密和依法受到保护的商业秘密、个人隐私的除外。

第六条公民、法人或者其他组织有权依法参与行政管理，提出行政管理的意见和建议。

by the law or regulations, organizations entrusted with certain authority in accordance with the law in Hunan Province when carrying out administrative functions.

When laws and regulations have provided otherwise concerning administrative procedures, the provisions of such laws and regulations shall apply.

Article 3. Administrative actions of administrative organs shall be taken in accordance with the provisions of the law, regulations and rules and within the legal scope of authority and comply with the administrative procedures stipulated by law.

Article 4. Administrative organs should treat citizens, legal persons and other organizations equally and may not discriminate against any of them.

The exercise of discretionary power by administrative organs should conform with their legislated purposes and principles. The measures taken should be necessary and appropriate. When implementing administrative management, if administrative organs have the option of using different ways to achieve their administrative purposes, they should choose those measures that are most favorable to maximizing protection of the rights and interests of citizens, legal persons and other organizations.

Article 5. Administrative organs should make public to citizens, legal persons and other organizations the basis, processes and outcomes of their exercise of administrative power, except those involving state secrets or legally protected commercial secrets or the privacy of individuals.

Article 6. Citizens, legal persons and other organizations have the right to participate in administrative management according to the law and to put forward opinions and recommendations on administrative

行政机关应当为公民、法人或者其他组织参与行政管理提供必要的条件，采纳其合理意见和建议。

第七条行政机关行使行政职权，应当遵守法定时限，积极履行法定职责，提高办事效率，为公民、法人或者其他组织提供优质服务。

第八条非因法定事由并经法定程序，行政机关不得撤销、变更已生效的行政决定；因国家利益、公共利益或者其他法定事由必须撤销或者变更的，应当依照法定权限和程序进行，并对公民、法人或者其他组织遭受的财产损失依法予以补偿。

第九条县级以上人民政府负责本规定在本行政区域内的实施工作。

县级以上人民政府法制部门和部门法制机构负责本规定实施的具体工作。

县级以上人民政府办公厅（室）、监察、人事、编制、财政等部门按照各自的职责分工，做好本规定实施的相关工作。

management.

Administrative organs should provide the necessary conditions for citizens, legal persons and other organizations to participate in administrative management, and accept their reasonable opinions and suggestions.

Article 7. When exercising administrative power, administrative organs should abide by the time limits established by the law, actively fulfill their legal obligations, enhance work efficiency, and provide quality services to citizens, legal persons and other organizations.

Article 8. Administrative organs may not revoke or revise administrative decisions that are in force because of reasons other than matters stipulated by the law, or without going through the legal procedures. If a decision has to be revoked or revised because of national interests, public interests or other matters stipulated by the law, it shall be done in accordance with the scope of authority and the procedures stipulated by the law, and compensation shall be made, in accordance with the law, for property losses suffered by citizens, legal persons or other organizations.

Article 9. People's governments at the county level and above shall be responsible for the implementation of these Provisions in their respective administrative areas.

The legislative affairs departments of the governments at the county level and above and the organs of in charge of legislative affairs for functional departments shall be responsible for the concrete work of implementing these Provisions.

The general offices and the departments of supervision, personnel, organization and finance shall do a good job of implementing these Provisions in accordance with their respective division of responsibilities.

第二章 行政程序中的主体

第一节 行政机关

第十条本规定所称行政机关是指各级人民政府及其工作部门和县级以上人民政府的派出机关。

第十一条行政机关的职权和管辖依照法律、法规、规章规定。

行政机关应当按决策权、执行权和监督权既相互制约又相互协调的原则，设定权力结构和运行机制。

上级行政机关可以根据《中华人民共和国地方各级人民代表大会和地方各级人民政府组织法》和其他有关法律、法规、规章，具体确定与下级行政机关之间的职权和管辖划分。

县级以上人民政府可以根据《中华人民共和国地方各级人民代表大会和地方各级人民政府组织法》和其他有关法律、法规、规章，具体规定所属工作部门的任务和职责，确定所属工作部门之间的管辖划分。

第十二条法律、法规、规章对上下级行政机关之间的行政职责分工未作明确规定的，上级行政机

Chapter II Subjects of Administrative Procedures

Section 1. Administrative Organs

Article 10. Administrative organs referred to in these Provisions are people's governments at different levels and their functional departments and the assigned organs of people's governments at the county level and above.

Article 11. The authority and jurisdiction of administrative organs shall be established in accordance with the provisions of law, regulations and rules.

Administrative organs should establish a power structure and operating mechanism in accordance with the principle of having the decision-making power, executive power and supervision power mutually restrain and mutually coordinate with each other.

Higher-level administrative organs may, in accordance with the provisions of the Law of the People's Republic of China on the Organization of Local People's Congresses and People's Governments at Different Levels and other relevant laws, regulations and rules, concretely determine the division of authority and jurisdiction among lower-level administrative organs.

People's governments at the county level and above may, in accordance with the provisions of the Law of the People's Republic of China Law on the Organization of Local People's Congresses and People's Governments at Different Levels and other relevant laws, regulations and rules, concretely stipulate the mandate and authority of their subordinate functional departments and determine the division of jurisdiction among their subordinate functional departments.

Article 12. If the laws, regulations or rules have not provided in clear terms for the division of administrative power and duties between higher and lower level administrative organs, the

关应当按照有利于发挥行政效能、财权与事权相匹配、权力与责任相一致、管理重心适当下移等原则确定。

下级行政机关能够自行决定和处理的行政事务，应当由下级行政机关自行决定和处理。

第十三条法律、法规、规章对地域管辖未作明确规定的，按照下列原则确定：

（一）涉及公民身份事务的，由其住所地行政机关管辖；住所地与经常居住地不一致的，由经常居住地行政机关管辖；住所地与经常居住地都不明的，由其最后居住地行政机关管辖；

（二）涉及法人或者其他组织主体资格事务的，由其主要营业地或者主要办事机构所在地行政机关管辖；

（三）涉及不动产的，由不动产所在地行政机关管辖；

（四）不属于前款第（一）至第（三）项所列行政事务的，由行政事务发生地的行政机关管辖。

higher-level administrative organs should decide the matter in accordance with the principle of being conducive to effective administration, better alignment of financial and administrative powers, and coordinating authority with responsibilities, and the principle of moving the center of gravity of administrative management downwards as appropriate.

Administrative matters that can be decided and handled by lower-level administrative organs independently should be left to lower-level administrative organs to decide and handle independently.

Article 13. If it is not provided for in clear terms by the laws, regulations or rules, jurisdiction shall be established in accordance with the following principles:

- (1) A matter involving matters of identity of a citizen shall be under the jurisdiction of the administrative organ in the place where the citizen's domicile is located. Where the domicile is different from his habitual residence, the matter shall be under the jurisdiction of the administrative organ in the place where the citizen's habitual residence is located. When neither the domicile nor the habitual residence is clear, the matter shall be under the jurisdiction of the administrative organ in the place where the citizen last stayed;
- (2) A matter concerning the qualification of a legal person or other organization to act shall be under the jurisdiction of the administrative organ in the place where the principal place of business or the principal office of the legal person or other organization is located;
- (3) A matter involving real property shall be under the jurisdiction of the administrative organ in the place where the real property is located; and
- (4) Administrative matters that are not listed in sub-paragraphs (1) to (3) shall be under the jurisdiction of administrative organs in the places where the matters take place.

第十四条行政机关之间发生职权和管辖权争议的，由争议各方协商解决，协商不成的，按照下列规定处理：

（一）涉及职权划分的，由有管辖权的编制管理部门提出协调意见，报本级人民政府决定；

（二）涉及执行法律、法规、规章发生争议的，由有管辖权的政府法制部门协调处理；对需要政府作出决定的重大问题，由政府法制部门依法提出意见，报本级人民政府决定。

第十五条各级人民政府之间为促进经济社会发展，有效实施行政管理，可以按照合法、平等、互利的原则开展跨行政区域的合作。

区域合作可以采取签订合作协议、建立行政首长联席会议制度、成立专项工作小组、推进区域经济一体化等方式进行。

上级人民政府应当加强对下级人民政府之间区域合作的组织、指导、协调和监督。

第十六条行政管理涉及多个政府工作部门的，可以建立由主要部

Article 14. When a dispute over the authority or jurisdiction arises among administrative organs, it shall be resolved by the disputing parties through consultation. If the dispute cannot be resolved through consultation, it shall be handled in accordance with the following rules:

(1) When a dispute involves the delineation of authority, the organization management department that has jurisdiction over the matter shall raise an opinion for coordination and submit it to the people's government at the same level for its decision; and

(2) When a dispute involves the enforcement of the laws, regulations or rules, it shall be coordinated and handled by the legislative affairs department of the government that has jurisdiction. If it is a major issue that requires a decision by the government, the legislative affairs department of the government shall raise an opinion in accordance with the law and submit it to the people's government at the same level for decision.

Article 15. For the sake of economic and social development and effectively carrying out administrative management, people's governments at different levels may carry out cooperation among administrative areas in accordance with the principles of legality, equality, and mutual benefit.

Cooperation among administrative areas may be carried out by adopting such methods as signing cooperative agreements, establishing the system of joint conferences of heads of administrative areas, setting up specialized working groups, and promoting integration of the regional economy.

The higher-level people's government should strengthen the organization, guidance, coordination and supervision of cooperation among administrative areas by lower-level governments.

Article 16. When several government functional departments are involved in administrative

部门牵头、其他相关部门参加的部门联席会议制度。

部门联席会议制度应当明确牵头部门、参加部门、工作职责、工作规则等事项。

部门联席会议协商不成的事项，由牵头部门将有关部门的意见、理由和依据列明并提出意见，报本级人民政府决定。

第十七条有下列情形之一的，行政机关应当请求相关行政机关协助：

（一）独自行使职权不能实现行政目的的；

（二）不能自行调查执行公务需要的事实资料的；

（三）执行公务所必需的书、资料、信息为其他行政机关所掌握，自行收集难以获得的；

（四）其他必须请求行政协助的情形。

被请求协助的行政机关应当及时履行协助义务，不得推诿或者拒绝协助。

不能提供行政协助的，应当以书面形式及时告知请求机关并说明理由。

因行政协助发生争议的，由请求机关与协助机关的共同上一级

management, a system of departmental joint conferences may be established with the principal department taking the lead and other relevant departments participating.

The system of departmental joint conferences should clearly identify the department taking the lead, the participating departments, their authority, the rules of operation, and other matters.

With respect to matters that are not successfully settled through consultation in departmental joint conferences, the department taking the lead shall clearly list the opinions, reasons and basis put forward by the relevant departments, come up with its own suggestions and submit them to the people's government at the same level for a decision.

Article 17. An administrative organ should ask relevant administrative organs to offer assistance under any one of the following circumstances:

(1) When it is impossible to achieve the administrative targets by exercising administrative power single-handedly;

(2) When the administrative organ is not able by itself to investigate the facts and materials as needed to perform its duties;

(3) The documents, materials and information needed to perform its duties are controlled by other administrative organs and it is difficult for the administrative organ in question to collect them by itself; or

(4) Other circumstances under which it is necessary to ask for administrative assistance.

Administrative organs receiving such requests should fulfill their duties to provide assistance promptly, and may not procrastinate or refuse to help.

When it is unable to assist, an administrative organ should notify the requesting administrative organ in writing in a timely manner and explain the reasons for its inability to assist.

When a dispute arises over administrative assistance, the common superior administrative

行政机关决定。

实施行政协助的，由协助机关承担责任；根据行政协助做出的行政行为，由请求机关承担责任。

第十八条行政机关工作人员执行公务时，有下列情形之一的，本人应当申请回避；本人未申请回避的，行政机关应当指令回避，公民、法人或者其他组织也可以提出回避申请：

（一）涉及本人利害关系的；

（二）涉及与本人有夫妻关系、直系血亲关系、三代以内旁系血亲关系以及近姻亲关系的亲属有利害关系的；

（三）其他可能影响公正执行公务的。

行政机关工作人员的回避由该行政机关主要负责人或者分管负责人决定。

行政机关主要负责人的回避由本级人民政府或者其上一级主管部门决定。

第二节其他行使行政职权的组织

第十九条其他行使行政职权的组织包括法律、法规授权的组织和依法受委托的组织。

法律、法规授权的组织在法定授权范围内以自己的名义行使行

organ at the next higher level of the requesting organ and assisting organ shall make a decision. The assisting organ shall bear responsibility for implementing administrative assistance. The requesting organ shall bear responsibility for any administrative actions made pursuant to administrative assistance.

Article 18. When performing official duties, a staff member of an administrative organ should apply to be recused under any one of the following circumstances. If such staff member fails to apply to be recused, the administrative organ concerned should order him to withdraw. Citizens, legal persons or other organizations may also request recusal:

(1) When the staff member has a personal stake in the administrative matter;

(2) When the staff member's spouse, direct blood relatives, collateral relatives within three generations or close relatives by marriage have a stake in the administrative matter; or

(3) Other circumstances that might influence the fair execution of his official duty.

The recusal of a staff member shall be decided by the principal responsible person of the administrative organ concerned or the responsible person of the administrative organ that is in charge of the matter.

The recusal of a principal responsible person of an administrative organ shall be decided by the people's government at the same level or the department-in-charge at the next higher level.

Section 2. Other Organizations That Exercise Administrative Power

Article 19. Other organizations that exercise administrative power include organizations authorized by the law or regulations, and organizations that are entrusted in accordance with the law.

The organizations authorized by the law or regulations shall make decisions in their own names within the authority authorized by the

政职权，并承担相应的法律责任。

依法受委托的组织在委托的范围内，以委托行政机关的名义行使行政职权，由此所产生的后果由委托行政机关承担法律责任。

行政机关的内设机构和派出机构对外行使行政职权时，应当以其隶属的行政机关的名义作出行政决定，由此所产生的后果由行政机关承担法律责任。法律、法规另有规定的除外。

第二十条法律、法规、规章规定行政机关可以委托其他组织行使行政职权的，受委托的组织应当具备履行相应职责的条件。

第二十一条委托行政机关与受委托的组织之间应当签订书面委托协议，并报同级人民政府法制部门备案。

委托协议应当载明委托事项、权限、期限、双方权利和义务、法律责任等。委托行政机关应当将受委托的组织 and 受委托的事项向社会公布。

第二十二条受委托的组织应当自行完成受委托的事项，不得将受委托事项再委托给其他组织或者个人。

law, and bear responsibility for corresponding legal consequences.

When administrative power is exercised in the name of an administrative organ by an organization that is entrusted by that administrative organ in accordance with the law within the authority of the entrustment, the legal consequences arising therefrom shall be borne by the entrusting administrative organ.

When exercising administrative power externally, the internal units or assigned units of an administrative organ should make administrative decisions in the name of the administrative organ with which they are affiliated. The legal consequences arising therefrom shall be borne by that administrative organ, except when the law or regulations provide otherwise.

Article 20. When the law, regulations, or rules provide that administrative organs may entrust other organizations to exercise administrative power, the organizations to be entrusted should possess the qualifications for performing the relevant duties.

Article 21. The entrusting administrative organ should conclude an entrustment agreement in writing with the entrusted organization and file it for the record with the legislative affairs department of the people's government at the same level.

The entrustment agreement should clarify the entrusted matters, authority, time limits and rights and obligations of both parties, as well as their legal responsibilities. The entrusting administrative organ should make public the entrusted organizations and the entrusted matters.

Article 22. Entrusted organizations should accomplish the entrusted matters by themselves and may not re-entrust the matters to other organizations or individuals.

第三节当事人和其他参与人

第二十三条本规定所称当事人是指与行政行为有法律上的利害关系，以自己名义参与行政程序的公民、法人或者其他组织。

第二十四条与行政行为的结果有法律上的利害关系的公民、法人或者其他组织，是利害关系人，行政机关应当通知其参与行政程序。

第二十五条限制行为能力人可以参与与他的年龄、智力相适应的行政程序；其他行政程序由他的法定代理人代理，或者征得他的法定代理人的同意。

无行为能力人由他的法定代理人代为参与行政程序。

当事人、利害关系人可以委托1至2名代理人参与行政程序，法律、法规、规章明确规定当事人、利害关系人必须亲自参与行政程序的，还应当亲自参加行政程序。

第二十六条当事人、利害关系人人数众多，没有委托共同代理人的，应当推选代表人参与行政程序。

代表人代表全体当事人、利害关系人参与行政程序。

代表人的选定、增减、更换，应当以书面形式告知行政机关。

Section 3. Parties and Other Participants

Article 23. The parties referred to in these Provisions are citizens, legal persons or other organizations that have a legal interest in an administrative action and participate in administrative procedures in their own names.

Article 24. Citizens, legal persons or other organizations that have a legal interest in the consequences of an administrative action are interested parties and administrative organs should notify them to take part in the administrative procedure.

Article 25. Parties with restricted competence may participate in administrative procedures that are appropriate for their age and intellectual competence. For other administrative procedures, they shall be represented by their legal agents stipulated by the law or shall seek the consent of their legal agents.

Persons with no competence shall be represented by their legal agents in administrative procedures.

Parties and interested persons may entrust one or two agents to participate in administrative procedures. When the laws, regulations and rules clearly stipulate that the parties and interested persons have to participate in the administrative procedures in person, they should participate in the administrative procedures in person.

Article 26. When the number of parties and interested persons is large and no common agent is entrusted, representatives should be selected to take part in administrative procedures.

The representatives shall take part in the administrative procedures on behalf of all parties and interested persons.

The selection, addition or reduction or replacement of the representatives should be reported to the administrative organs concerned

第二十七条公众、专家、咨询机构等依照本规定参与行政程序。

第二十八条行政程序参与人在行政程序中，依法享有知情权、参与权、表达权、监督权。

第三章行政决策程序

第一节重大行政决策

第二十九条县级以上人民政府作出重大行政决策，适用本节规定。

县级以上人民政府工作部门和乡镇人民政府的重大行政决策程序参照本节规定执行。

重要紧急情况必须由政府立即决策的，可以由政府行政首长或者分管副职按职权临机决定，并及时在政府常务会议上通报或者向行政首长报告。

起草地方性法规草案和制定规章，适用《中华人民共和国立法法》、《规章制定程序条例》和《湖南省人民政府制定地方性法规草案和规章办法》等有关法律、法规、规章的规定，涉及重大行政决策事项的，还应当适用重大行政决策程序。

in writing.

Article 27. The public, experts and consultant agencies shall take part in administrative procedures in accordance with these Provisions.

Article 28. Participants in administrative procedures shall enjoy in accordance with the law the right to know, the right to participate, the right of expression and the right to supervise.

Chapter III. Procedures for Administrative Decision-making

Section 1. Major Administrative Decision-making

Article 29. These Provisions shall apply to major administrative decision-making by people's governments at the county level and above.

Major administrative decision-making by the functional departments of a people's government at the county level or above or by a people's government at the township or town level shall be carried out with reference to the provisions of this Section.

Important emergency matters that call for immediate decision-making by the government may be handled on the spot, in accordance with the situation, by the chief executive of the government or his deputy who is in charge of such matter in accordance with their authority, and they shall promptly inform the executive meeting of the government or report to the chief executive.

When drafting local regulations or formulating rules, the provisions of the Legislation Law of the People's Republic of China, the Regulations on Procedures for Formulating Rules, the Measures of the People's Government of Hunan Province on Drafting Local Regulations and Formulating Rules and other relevant laws, regulations and rules shall apply. When major administrative decision-making is involved, the

第三十条行政决策必须坚持中国共产党的领导，实行依法决策、科学决策和民主决策。

第三十一条本规定所称的重大行政决策是指县级以上人民政府作出的涉及本地区经济社会发展全局、社会涉及面广、专业性强、与人民群众利益密切相关的下列行政决策事项：

（一）制定经济和社会发展重大政策措施，编制国民经济和社会发展规划、年度计划；

（二）编制各类总体规划、重要的区域规划和专项规划；

（三）编制财政预决算，重大财政资金安排；

（四）重大政府投资项目；

（五）重大国有资产处置；

（六）资源开发利用、环境保护、劳动就业、社会保障、人口和计划生育、教育、医疗卫生、食品药品、住宅建设、安全生产、交通管理等方面的重大措施；

（七）重要的行政事业性收费以及政府定价的重要商品、服务价格的确定和调整；

（八）行政管理体制改革的重大措施；

（九）其他需由政府决策的重

cedures for major administrative decision-making also should apply.

Article 30. Administrative decision-making must uphold the leadership of the Chinese Communist Party and be carried out in accordance with the law in a scientific and democratic way.

Article 31. Major administrative decision-making as referred to in these Provisions means decision-making by people's governments at the county level and above concerning the following administrative decision-making matters that involve the overall economic and social development situation of the region, have extensive social ramifications, involve a high degree of specialization and are closely linked with the people's interests:

(1) Formulating major policy measures for economic and social development, making master plans and annual plans for national economic and social development;

(2) Making all kinds of master plans, important regional plans and plans for special items;

(3) Making fiscal estimates and budgets and major financial and capital arrangements;

(4) Concerning major government investment projects;

(5) Concerning major matters about the disposal of state-owned assets;

(6) Concerning major measures in the field of resource development and utilization, environment protection, labor and employment, social security, population and family planning, education, medical and health care, food and drug, housing construction, production safety, traffic management, etc.;

(7) Setting and adjusting important administrative and institutional fees and the prices of key goods and services that are priced by the government;

(8) Concerning major measures in the reform of the administrative managerial system; or

(9) Other major matters that require decision-making by the government.

大事项。

重大行政决策的具体事项和量化标准，由县级以上人民政府在前款规定的范围内依法确定，并向社会公布。

第三十二条政府行政首长代表本级政府对重大行政事项行使决策权。

政府分管负责人、政府秘书长或者政府办公室主任协助行政首长决策。

政府工作部门、下级人民政府以及公民、法人或者其他组织认为重大事项需要提请政府决策的，可以提出决策建议。

县级以上人民政府应当建立健全行政决策咨询机制，完善行政决策的智力和信息支持系统。

决策承办单位依照法定职权确定或者由政府行政首长指定。

第三十三条政府行政首长提出的重大行政决策事项，由行政首长交承办单位承办，启动决策程序。

政府分管负责人、政府工作部门和下一级人民政府提出的重大行政决策事项的建议，由政府行政首长确定是否进入决策程序。

The specific matters of major administrative decision-making and the standards for their quantification shall be determined by people's governments at the county level and above in accordance with the law and within the scope provided in the previous Paragraph, and be shall be made public to society.

Article 32. The chief executive of a government shall exercise the power of administrative decision-making with respect to major administrative matters on behalf of that government.

The government official responsible for the matter, the secretary general or the director of the general office of the government shall assist the chief executive in decision-making.

The functional departments of the government, people's governments at lower levels, and citizens, legal persons or other organizations may put forward decision-making suggestions if they believe there are major matters that require decision-making by the government.

People's governments at the county level and above should establish and perfect an advisory mechanism for administrative decision-making, and perfect the intellectual and information support systems for administrative decision-making.

The department responsible for undertaking a decision (the undertaking department) shall be determined in accordance with the legal authority or designated by the chief executive of such government.

Article 33. A matter for major decision-making raised by the chief executive of the government shall be sent to the undertaking department for implementation and initiating the decision-making procedure.

The chief executive of the government shall determine if a proposal made by the responsible person of the government in charge of the matter, a functional department of the government or the people's government at the

第三十四条决策承办单位对拟决策事项应当深入调查研究，全面、准确掌握决策所需信息，结合实际拟定决策方案，并按照决策事项涉及的范围征求有关方面意见，充分协商协调，形成决策方案草案。

对需要进行多方案比较研究或者争议较大的事项，应当拟定两个以上可供选择的决策方案。

决策承办单位应当对重大行政决策方案草案进行合法性论证。

决策承办单位可以委托专家、专业服务机构或者其他有相应能力的组织完成专业性工作。

决策承办单位可以对重大行政决策方案进行成本效益分析。

第三十五条除依法不得公开的事项外，决策承办单位应当向社会公布重大行政决策方案草案，征求公众意见。

公布的事项包括：

（一）重大行政决策方案草案及其说明；

（二）公众提交意见的途径、方式和起止时间；

（三）联系部门和联系方式，包括通信地址、电话、传真和电子邮箱等。

next lower level with respect to a matter for major decision-making should be entered into the decision-making procedure

Article 34. The undertaking department should carry out in-depth research and study of the proposed decision-making matter, comprehensively and accurately master the information needed, produce a proposed decision-making plan in light of the actual situation, seek the opinions of the relevant parties within the scope of those affected by the decision, carry out full consultation and coordination and produce a draft plan.

For issues that require comparative studies among different alternatives or matters involving relatively significant controversy, two or more alternative plans for decision-making should be prepared.

The undertaking department should conduct an expert argumentation on the lawfulness of the major administrative decision-making plan.

The undertaking department may entrust experts, professional service providers or other organizations that have the required competence to complete work of a professional nature.

The undertaking department may carry out a cost/benefit analysis of the major administrative decision-making plan.

Article 35. Aside from matters that may not, according to law, be made public, the undertaking department should publish its draft major administrative decision-making plan and seek the opinions of the general public.

The items to be made public shall include:

(1) The draft major administrative decision-making plan and its explanation;

(2) The channels and means through which the general public can submit their opinions, and the time frame for doing so; and

(3) The department to contact, and the means of contacting it, including its mailing address, telephone number, fax number, email address, etc.

决策承办单位公布重大行政决策方案草案征求公众意见的时间不得少于 20 日。

第三十六条决策承办单位应当组织 3 名以上专家或者研究咨询机构对重大行政决策方案草案进行必要性、可行性、科学性论证。

决策承办单位应当从与重大行政决策相关的专家中随机确定或者选定参加论证的专家，保证参加论证的专家具有代表性和均衡性。

专家进行论证后，应当出具书面论证意见，由专家签名确认。专家对论证意见的科学性负责。

决策承办单位应当对专家论证意见归类整理，对合理意见应当予以采纳；未予采纳的，应当说明理由。

专家论证意见及采纳情况应当向社会公布。

第三十七条重大行政决策方案草案公布后，决策承办单位应当根据重大行政决策对公众影响的范围、程度等采用座谈会、协商会、开放式听取意见等方式，广泛听取公众和社会各界的意见和建议。

公众参与的范围、代表的选择

The time frame for the undertaking department to seek the opinions of the general public on its published draft major administrative decision-making plan may not be less than 20 days.

Article 36. The undertaking department should organize more than three or more experts or research consultancy agencies to conduct an expert argumentation of the necessity, feasibility and scientific nature of the draft major administrative decision-making plan.

The undertaking department should, in view of the actual situation, identify or randomly select persons with expertise relevant to the major administrative decision-making to participate in the expert argumentation, and should ensure the representative nature and balance of the composition of the experts participating in the expert argumentation.

When the expert argumentation is concluded, the participating experts should produce opinions in writing and append their signatures as confirmation. The participating experts shall be accountable for the scientific nature of the opinions.

The undertaking department should classify and organize the opinions of the experts and adopt any reasonable opinions. If any opinions are not adopted, the reasons therefore should be explained.

The opinions of the participating experts and the situation regarding their adoption should be made public to society.

Article 37. After publishing a major administrative decision-making plan, the undertaking department should, in light of the scope and degree of impact the major administrative decision will have on the general public, adopt methods such as convening discussion forums, holding consultations, listening to opinions in an open manner, etc., to extensively listen to the opinions and suggestions of the general public and people from all walks of life.

The scope of participation by the general public

应当保障受影响公众的意见能够获得公平的表达。

决策承办单位应当将公众对重大行政决策的意见和建议进行归类整理，对公众提出的合理意见应当采纳；未予采纳的，应当说明理由。

公众意见及采纳情况应向社会公布。

第三十八条重大行政决策有下列情形之一的，应当举行听证会：

- （一）涉及公众重大利益的；
- （二）公众对决策方案有重大分歧的；
- （三）可能影响社会稳定的；
- （四）法律、法规、规章规定应当听证的。

第三十九条重大行政决策方案草案经政府分管负责人审核后，由行政首长决定提交政府常务会议或者政府全体会议讨论。

政府常务会议或者政府全体会议审议重大行政决策方案草案，应遵循以下程序：

- （一）决策承办单位作决策方案草案说明；
- （二）政府法制部门作合法性

and the selection of participating representatives should be determined to ensure fair expression of opinions by those in the general public who would be affected by the decision-making.

The undertaking department should classify and organize the opinions and suggestions of the general public on the major administrative decision-making and adopt the reasonable suggestions of the general public. For those opinions that are not adopted, the reasons for not adopting them should be explained.

The opinions of the general public and the situation regarding their adoption should be made public to society.

Article 38. A hearing should be held under any one of the following circumstances concerning major administrative decision-making:

- (1) When it involves a major interest of the general public;
- (2) When the general public has major differences on the decision-making plan;
- (3) When it might influence social stability; or
- (4) When laws, regulations or rules stipulate that a hearing should be held.

Article 39. After being examined and endorsed by the government official responsible for the matter, the draft plan for a major administrative decision shall be submitted it to the executive meeting or the plenary meeting of the government for discussion, as decided by the chief executive of the government.

When considering the draft plan for a major administrative decision, the executive meeting or the plenary meeting of the government should follow the following agenda:

- (1) Explanation of the draft decision plan by the undertaking department;
- (2) Presentation by the legislative affairs department of the government on the

审查或者论证说明；

(三) 会议其他组成人员发表意见；

(四) 决策事项的分管负责人发表意见；

(五) 行政首长最后发表意见。

examination and expert argumentation of the lawfulness of the draft plan;

(3) Views expressed by other participants at the meeting;

(4) Statement by the government official responsible for the decision-making matter; and

(5) A final statement by the chief executive of the government.

第四十条重大行政决策在集体审议的基础上由行政首长作出决定。

行政首长可以对审议的事项作出同意、不同意、修改、暂缓或者再次审议的决定。

作出暂缓决定超过 1 年的，方案草案退出重大决策程序。

行政首长的决定与会议组成人员多数人的意见不一致的，应当说明理由。

政府常务会议或者政府全体会议，应当记录重大行政决策方案的讨论情况及决定，对不同意见应当特别载明。

第四十一条重大行政决策事项依法需要报上级人民政府批准或者依法应当提请同级人民代表大会及其常务委员会审议决定的，县级以上人民政府提出决策意见后，按程序报上级人民政府批准或者依法提请同级人民代表大会及其常务委员会审议决定。

Article 40. Major administrative decisions shall be decided by the chief executive on the basis of collective consideration.

The chief executive may make a decision to approve, not approve, revise, postpone, or reconsider the matter being considered.

When a decision is postponed for more than one year, the draft plan in question shall be withdrawn from the procedure for major administrative decision-making.

When the decision of the chief executive of the government is not consistent with the opinion of the majority of the participants at the meeting, an explanation of his reasons should be provided.

The executive meeting or plenary meeting of the government should record the discussions and decisions on the draft plans of major administrative decision-making; different opinions should be especially recorded with clarity.

Article 41. If according to law a major administrative decision-making matter needs to be submitted to the higher-level people's government for approval, or according to law should be submitted to the people's congress at the same level or its standing committee for consideration and decision, then after a decision-making opinion is made on that matter by a people's government at the county level or above, it shall be submitted, in accordance with

procedures, to the higher-level people's government for approval, or according to law shall be submitted to the people's congress at the same level or its standing committee for consideration and decision.

第四十二条由行政机关作出决定的重大行政决策，决策机关应当在作出决定之日起 20 日内，向社会公布重大行政决策结果。

Article 42. When a decision is made by an administrative organ on a major administrative decision-making, the decision-making organ should, within 20 days after the decision is made, make public to society the result of the major administrative decision-making.

第四十三条决策机关应当通过跟踪调查、考核等措施对重大行政决策的执行情况进行督促检查。

Article 43. Decision-making organs should conduct supervision and examination of the implementation of major administrative decisions by such means as follow-up investigation, examination and evaluation.

决策执行机关应当根据各自职责，全面、及时、正确地贯彻执行重大行政决策。

The decision-implementing organs should comprehensively, promptly and correctly implement the major administrative decisions according to their respective authority.

监督机关应当加强对重大行政决策执行的监督。

The supervision organs should strengthen their supervision over the implementation of major administrative decisions.

决策执行机关、监督机关及公民、法人或者其他组织认为重大行政决策及执行有违法或者不适当的，可以向决策机关提出。

If they believe a major administrative decision and its implementation are violating the law or inappropriate, the decision-implementing organ, the supervisory organs, or citizens, legal persons or other organizations may raise the issue to the decision-making organ.

决策机关应当认真研究，并根据实际情况作出继续执行、停止执行、暂缓执行或者修订决策方案的决定。

The decision-making organ should seriously study the case and decide in light of the actual situation if implementation of the decision should be continued, stopped or suspended, or if the decision should be revised.

第四十四条决策机关应当定期对重大行政决策执行情况组织评估，并将评估结果向社会公开。

Article 44. The decision-making organs should regularly organize evaluation of the implementation of major administrative decisions and make the evaluation results public to society.

第二节制定规范性文件

Section 2. Formulating Normative Documents

第四十五条本规定所称规范性文件是指除政府规章以外，行政机关和法律、法规授权的组织制定的，涉及公民、法人和其他组织权利义务，在一定时期内反复适用，具有普遍约束力的行政公文。

Article 45. Normative documents as referred to in these Provisions means the administrative documents (besides government rules) involving the rights and obligations of citizens, legal persons or other organizations that are formulated by administrative organs and organizations authorized by law and regulations and that for a certain time are repeatedly applicable and universally binding.

第四十六条涉及两个以上政府工作部门职权范围内的事项，应当由本级人民政府制定规范性文件，或者由有关部门联合制定规范性文件。

Article 46. Matters involving the authority of two or more functional departments of the government should be regulated by normative documents formulated by the people's government at the same level or normative documents formulated jointly by the departments concerned.

政府工作部门制定规范性文件涉及群众切身利益、社会关注度高的事项及重要涉外事项，应当事先请示本级人民政府；政府工作部门联合制定的重要规范性文件发布前应当经本级人民政府批准。

When formulating normative documents involving the vital interests of the people, matters with a high degree of social attention, or important matters of foreign affairs, the functional departments of the government should first seek instructions from the people's government at the same level. Important normative documents formulated jointly by the functional departments of the government should be approved by the people's government at the same level before being issued.

议事协调机构、部门派出机构、部门内设机构不得制定规范性文件。

The consultative and coordinating organs, assigned organs or internal units of the functional departments may not formulate normative documents.

第四十七条规范性文件不得创设行政许可、行政处罚、行政强制、行政收费等事项。

Article 47. No administrative licenses, administrative punishment, administrative coercion, administrative fee collecting or other such matters may be established through normative documents.

规范性文件对实施法律、法规、规章作出的具体规定，不得与所依据的规定相抵触；没有法律、法规、规章依据，规范性文件不得作出限制或者剥夺公民、法人或者其他组织合法权利或者

The concrete provisions made in normative documents concerning the implementation of laws, regulations and rules may not contradict the provisions on which the normative documents are based. Except as provided by laws, regulations or rules, a normative document may not make provisions that will

增加公民、法人和其他组织义务的规定。

limit or deprive the lawful rights of citizens, legal persons or other organizations or increase the obligations of citizens, legal persons or other organizations.

第四十八条制定规范性文件应当采取多种形式广泛听取意见，并经制定机关负责法制工作的机构进行合法性审查，由制定机关负责人集体审议决定。

Article 48. When formulating normative documents, opinions should be extensively sought through various forms, and the lawfulness of the normative documents should be examined by the organs in charge of legislative work of the formulating organs, and shall be collectively considered and decided by the responsible persons of the formulating organs.

规范性文件涉及重大行政决策的，还应当适用重大行政决策程序。

When a normative document involves major administrative decision-making, the major administrative decision-making procedure also should apply.

第四十九条实行规范性文件登记制度。

Article 49. A normative documents registration system shall be implemented.

对县级以上人民政府及其工作部门制定的规范性文件，实行统一登记、统一编号、统一公布。

Normative documents formulated by people's governments at the county level and above

and their functional departments shall be subject to unified registration, unified

numbering (of file numbers) and unified promulgation.

具体办法由省人民政府另行制定。

Concrete measures in this regard shall be formulated separately by the Provincial People's Government.

第五十条规范性文件应当自公布之日起 30 日后施行；但是公布后不立即施行将有碍规范性文件施行的，可以自公布之日起施行。

Article 50. Normative documents should come into effect 30 days after their promulgation.

However, if failing to implement a normative document immediately after its promulgation will impede its implementation, it may come into effect as of the day it is promulgated.

第五十一条规范性文件有效期为 5 年。

Article 51. Normative documents shall be valid for five years.

标注“暂行”、“试行”的，有效期为 2 年。

Those marked as “for temporary implementation” and “for trial implementation” shall be valid for two years.

有效期满的，规范性文件自动

Normative documents shall automatically

失效。

制定机关应当在规范性文件有效期届满前 6 个月内进行评估，认为需要继续施行的，应当重新公布；需要修订的，按制定程序办理。

第五十二条县级以上人民政府法制部门应当建立规范性文件数据库和网上检索系统，及时公布经登记的现行有效的规范性文件和已经失效的规范性文件目录，方便公民、法人或者其他组织查询、下载。

第五十三条公民、法人或者其他组织认为规范性文件违法的，可以向有关人民政府法制部门提出审查申请。

接到申请的政府法制部门应当受理，并在收到申请之日起 30 日内作出处理，并将处理结果书面告知申请人。

第四章行政执法程序

第一节 一般规定

第五十四条本规定所称行政执法，是指行政机关依据法律、法规和规章，作出的行政许可、行政处罚、行政强制、行政给付、行政征收、行政确认等影响公民、法人或者其他组织权利和义务的具体行政行为。

become invalid upon expiration.

The formulating organ should conduct an evaluation of a normative document within six months before its expiration. If it believes it is necessary to continue the implementation of that normative document, the document should be promulgated anew. If revision of the normative document is necessary, it shall be done in accordance with the procedure for formulating normative documents.

Article 52. The legislative affairs department of a people's government at the county level or above should establish a database and an online retrieval system for normative documents and promptly publish a catalogue of the registered normative documents that are currently in force or expired to facilitate the retrieval and downloading of those documents by citizens, legal persons or other organizations.

Article 53. If they believe a normative document violates the law, citizens, legal persons or other organizations may apply to the legislative affairs department of the relevant people's government for examination. The legislative affairs department that has received the application should accept the case and handle it within 30 days of receipt of the application and inform the applicants in writing of the result of the case.

Chapter IV. Administrative Enforcement Procedure

Section 1. General Provisions

Article 54. Administrative enforcement as referred to in these Provisions means the specific administrative actions conducted by administrative organs in accordance with laws, regulations and rules concerning administrative licensing, administrative punishment, administrative coercion, administrative payment, administrative expropriation, and administrative confirmation that impact the

第五十五条行政执法依据包括法律、行政法规、地方性法规、规章。

行政执法依据应当向社会公开。未经公开的，不得作为行政执法依据。

第五十六条县级以上人民政府法制部门应当对本行政区域内具备行政执法资格的主体依法向社会公告。

行政执法人员应当按照省人民政府规定参加行政执法培训，经考试合格，并取得行政执法证件，持证上岗。

第五十七条根据国务院的授权，省人民政府可以决定一个行政机关行使有关行政机关的行政处罚权。

集中行使行政处罚权的行政机关是本级人民政府直接领导的行政执法部门，具有行政执法主体资格。

行政处罚权相对集中后，有关行政执法部门不得再行使已被调整出的行政处罚权；继续行使的，作出的行政处罚无效。

rights and obligations of citizens, legal persons or other organizations.

Article 55. The bases for administrative enforcement include laws, administrative regulations, and regulations of a local nature and rules.

The bases for administrative enforcement should be made public to society. Anything that has not been made public may not be used as the basis for administrative enforcement.

Article 56. The legislative affairs departments of people's governments at the county level and above should announce to the general public, in accordance with the law, who is qualified to be an agent of administrative enforcement within their respective administrative areas.

Administrative enforcement personnel should take part in administrative enforcement training in accordance with the stipulations of the Provincial People's Government, pass an examination, obtain an administrative enforcement certificate and assume their post with that certificate.

Article 57. Based on authorization by the State Council, the Provincial People's Government may decide that one administrative organ shall exercise the power of administrative punishment for relevant administrative organs. An organ that centralizes the exercise of the power of administrative punishment shall be an administrative enforcement department under the direct leadership of the people's government at the same level, and shall have the qualification to be an agent of administrative enforcement

After the power of administrative punishment has been relatively centralized, the relevant administrative enforcement organs may no longer exercise powers of administrative punishment that have been transferred to others; if any organs continue to exercise such powers, the administrative punishment decisions they make shall be null and void.

经国务院批准，省人民政府根据精简、统一、效能的原则，可以决定一个行政机关行使有关行政机关的行政许可权。

第五十八条县级以上人民政府根据行政管理的需要，可以组织相关行政机关联合执法。

联合执法中的行政执法决定，由参加联合执法的行政机关在各自的职权范围内依法作出，并承担相应的法律责任。

第五十九条行政执法事项需要行政机关内设的多个机构办理的，该行政机关应当确定一个机构统一受理公民、法人或者其他组织的申请，统一送达行政执法决定。

对涉及两个以上政府工作部门共同办理的事项，县级以上人民政府可以确定一个部门或者政务中心窗口统一受理申请，将相关事项以电子政务方式抄告相关部门，实行网上并联审批。

第六十条行政机关办理行政执法事项，应当健全内部工作程序，明确承办人、审核人、批准人，按照行政执法的依据、条件和程序，由承办人提出初审意见和理由，经审核人审核后，由批准人批准决定。

With the approval of the State Council, the Provincial People's Government may decide, based on the principles of administrative streamlining, unity and efficiency, to permit a single administrative organ to exercise the administrative licensing power for relevant administrative organs.

Article 58. In light of the demands of administrative management, people's governments at the county level and above may organize joint enforcement among relevant administrative organs.

The decisions of administrative enforcement in a joint enforcement process shall be made by the administrative organs participating in joint enforcement within their respective authority in accordance with the law, and each of them shall bear corresponding legal responsibilities.

Article 59. When an administrative enforcement matter needs to be handled by several internal units established in an administrative organ, the administrative organ should designate one unit to receive applications from citizens, legal persons and other organizations and deliver the administrative enforcement decisions in a unified manner.

When it involves a matter jointly handled by two or more functional departments of a government, a government at the county level or above may designate one department or one window in the government affairs center to accept applications in a unified manner, and copy the relevant matters to relevant units by means of e-government to carry out joint examination and approval online.

Article 60. When handling administrative enforcement matters, administrative organs should perfect their internal working procedures, and clearly identify persons that are respectively in charge of undertaking, examining and approving matters. In accordance with the basis, conditions and procedures of administrative enforcement, the

第六十一条与人民群众日常生活、生产直接相关的行政执法活动，主要由市州、县市区行政机关实施。

县级人民政府工作部门在必要时，可以委托乡镇人民政府实施行政执法，具体办法由省人民政府另行制定。

第六十二条行政机关在行政执法过程中应当依法及时告知当事人、利害关系人相关的执法事实、理由、依据、法定权利和义务。

行政执法的告知应当采用书面形式。情况紧急时，可以采用口头等其他方式。但法律、法规、规章规定必须采取书面形式告知的除外。

第六十三条行政执法直接影响当事人权利、义务且不属于必须立即执行的，行政机关应当先采用教育、劝诫、疏导等手段，促使当事人自觉履行法定义务、纠正错误。

当事人违法情节轻微，经教育后自觉履行法定义务，且未造成

persons in charge of undertaking matters shall conduct a preliminary examination and provide their opinions and the reasons for them; the persons in charge of examination shall conduct their examination, and then the persons in charge of approval shall give approval or make a decision.

Article 61. Administrative enforcement actions directly related to people's livelihood and production shall be conducted mainly by administrative organs at the municipality and autonomous prefecture, county, city or district level.

When necessary, the functional departments of people's governments at the county level may entrust, in accordance with the law, people's governments at the town level to implement administrative enforcement. Concrete methods in this regard shall be formulated separately by the Provincial People's Government.

Article 62. When carrying out administrative enforcement, administrative organs should promptly inform parties and interested parties about the relevant enforcement facts, reasons, basis and legal rights and obligations, in accordance with the law.

A notification of the administrative enforcement should be made in writing. In the event of an emergency, notice may be given orally or by other means except when the laws, regulations and rules provide that notification must be in writing.

Article 63. When administrative enforcement will have a direct impact on the rights and obligations of the parties and does not have to be executed immediately, the administrative organs should, first of all, urge the parties to conscientiously fulfill their legal duties and correct their wrongdoings by means of education, persuasion, admonition and guidance.

When the legal offences of the parties are light and minimal, the parties have conscientiously

危害后果的，可以不予追究法律责任。

违法行为轻微并及时纠正，没有造成危害后果的，不予处罚。

第二节程序启动

第六十四条行政执法程序依法由行政机关依职权启动，或者依公民、法人和其他组织的申请启动。

行政机关依职权启动程序，应当由行政执法人员填写有统一编号的程序启动审批表，报本行政机关负责人批准。

情况紧急的，可以事后补报。

公民、法人或者其他组织认为自己的申请事项符合法定条件，可以申请行政机关启动行政执法程序。

第六十五条行政机关对当事人提出的申请，应当根据下列情况分别作出处理：

（一）申请事项依法不属于本行政机关职权范围的，应当即时作出不予受理的决定，并告知当事人向有关行政机关申请；

（二）申请材料存在可以当场更正的错误的，应当允许当事人当场更正；

（三）申请材料不齐全或者不

fulfilled their legal duties after being educated and there are no harmful consequences arising from the offences, their legal responsibilities need not be pursued.

No punishment shall be given for light and minimal legal offences that are corrected promptly and have not caused harmful consequences.

Section 2. Initiating the Procedure

Article 64. Administrative enforcement shall be initiated by administrative organs within their authority in accordance with the law or on the basis of applications made by citizens, legal persons or other organizations.

When an administrative organ initiates the procedure within its authority, the administrative enforcement personnel must complete a Form for Examination and Approval of Initiating Procedures, numbered sequentially, and submit it to the responsible person of such administrative organ for approval.

If the circumstances are urgent, such form may be filed after the fact.

If they believe that the subject matter of their application meets the legal requirements, citizens, legal persons or other organizations may request administrative organs to initiate administrative enforcement procedures.

Article 65. Administrative organs should handle the applications of the parties as specified respectively in the following circumstances:

(1) If according to law, the subject matter of an application is not within the administrative organ's authority, a decision to not accept the application should be made promptly and the parties should be advised to apply to the relevant administrative organ;

(2) If there are mistakes in the application materials that can be corrected on the spot, the parties should be allowed to correct them on the spot;

(3) If the application materials are not complete

符合法定形式的，应当当场或者在 5 日内一次告知当事人需要补正的全部内容，逾期不告知的，自收到申请材料之日起即为受理；当事人在限期内不作补充的，视为撤回申请；

（四）申请事项属于本行政机关职权范围，申请材料齐全、符合法定形式，或者当事人按照本行政机关的要求提交全部补正申请材料的，应当受理当事人的申请。

行政机关受理或者不受理当事人申请的，应当出具加盖本行政机关印章和注明日期的书面凭证。

第三节 调查和证据

第六十六条 行政程序启动后，行政机关应当调查事实，收集证据。

行政机关执法人员在调查时，执法人员不得少于 2 人，应当向当事人或者有关人员出示行政执法证件，在调查记录中予以记载。

行政机关执法人员不出示行政执法证件的，当事人或者有关人员有权拒绝接受调查和提供证据。

第六十七条 当事人应当配合行政机关调查，并提供与调查有关材料与信息。

or not in conformity with the format required by the law, the parties should be given, on the spot or within five days, a one-time notice of all the contents that need to be supplemented or corrected. If no notice is given within the time limit, the application shall be deemed to have been accepted on the day on which the application materials were received. If the parties fail to provide the supplemental materials within the time limits, the application shall be deemed to have been withdrawn; or (4) If the matters of the applications are within the authority of the administrative organs, the application materials are complete and in conformity with the format required by the law, or the parties have supplemented and corrected all the application materials according to the requirement of the administrative organs, the applications of the parties should be accepted. The administrative organs should provide dated certificates affixed with the seals of the administrative organs certifying that the applications of the parties have been accepted or not accepted by the administrative organs.

Section 3. Investigation and Evidence

Article 66. Administrative organs should investigate the facts and collect evidence after the administrative procedure is initiated.

When carrying out an investigation, the number of enforcement personnel of the administrative organ assigned to the case may not be less than two and they shall show the parties or relevant persons their administrative enforcement ID, and enter it into the record of the investigation. If the enforcement personnel of an administrative organ fail to show their administrative enforcement ID, the parties or relevant persons have the right to refuse to be investigated or provide evidence.

Article 67. The parties should cooperate with investigations by administrative organs and provide materials and information relevant to

知晓有关情况的公民、法人或者其他组织应当协助行政机关的调查。

公民协助行政机关调查，其所在单位不得扣减工资；没有工作单位的，因协助调查造成的误工损失，由行政机关按当地上年度职工日平均工资给予补助。

因协助调查产生的其他合理费用由行政机关承担。

第六十八条行政机关应当采取合法的手段和依照法定的程序，客观、全面收集证据，不得仅收集对当事人不利的证据。

第六十九条行政执法证据包括：

（一）书证；（二）物证；
（三）当事人陈述；（四）证人证言；（五）视听资料；（六）鉴定结论；（七）勘验笔录、现场笔录。

第七十条下列证据材料不得作为行政执法决定的依据：

（一）严重违法法定程序收集

the investigation.

Citizens, legal persons or other organizations that have relevant information should assist investigations by administrative organs.

The employer of a citizen who assists an investigation by an administrative organization may not take deductions from or reduce such citizen's wages for the time it takes. If a citizen does not have an employer but has suffered losses due to not being able to work while assisting the investigation, the administrative organ shall subsidize him at the rate of the previous year's average daily wage of a local worker.

The reasonable expenditures incurred in his assisting the investigation shall be borne by the administrative organ.

Article 68. Administrative organs should objectively and comprehensively collect all evidence by lawful means and in accordance with the legal procedures, and may not only collect evidence detrimental to the parties.

Article 69. Administrative enforcement evidence includes:

- (1) Written evidence;
- (2) Material evidence;
- (3) Statements of the parties;
- (4) Testimony of witnesses;
- (5) Audio and video materials;
- (6) Laboratory test findings; and
- (7) Written inquest records and written records of field investigations.

Article 70. The following evidence may not be used as the basis for administrative enforcement decisions:

- (1) Evidence collected by seriously violating

的；

（二）以非法偷拍、非法偷录、非法窃听等手段侵害他人合法权益取得的；

（三）以利诱、欺诈、胁迫、暴力等不正当手段取得的；

（四）没有其他证据印证、且相关人员不予认可的证据的复印件或者复制品；

（五）被技术处理而无法辨认真伪的；

（六）不能正确表达意志的证人提供的证言；

（七）在中华人民共和国领域以外形成的未办理法定证明手续的；

（八）不具备合法性和真实性的其他证据材料。

第七十一条作为行政执法决定依据的证据应当查证属实。

当事人有权对作为定案依据的证据发表意见，提出异议。

未经当事人发表意见的证据不能作为行政执法决定的依据。

第七十二条行政机关对依职权作出的行政执法决定的合法性、适当性负举证责任。

行政机关依申请作出行政执法决定的，当事人应当如实向行政机关提交有关材料，反映真实情况。

行政机关经审查认为其不符合法定条件的，由行政机关负举证

legal procedures;

(2) Evidence obtained by using illegal hidden cameras, illegal hidden tape recorders, illegal bugging or other means that violate the lawful rights and interests of other people;

(3) Evidence obtained by inappropriate means such as inducement, fraud, coercion or violence;

(4) Duplicates or copies of evidence that are not corroborated by other evidence and are not confirmed by relevant persons;

(5) Evidence the authenticity of which cannot be determined due to the technical treatment it has undergone;

(6) Testimony provided by witnesses who lack competence to express themselves correctly;

(7) Evidence formed outside the territory of the People's Republic of China that has not been certified through legal procedures; and

(8) Other evidence materials that lack lawfulness and authenticity.

Article 71. Evidence used as the basis of administrative enforcement decisions should be examined to prove its truthfulness and certified as authentic.

The parties have the right to express their opinions on and put forward objections to evidence that is used as the basis of a decision in the case.

Evidence that has not been commented on by the parties may not be used as the basis for administrative enforcement decisions.

Article 72. When acting within their authority, administrative organs shall bear the burden of proof of the lawfulness and appropriateness of their administrative enforcement decisions.

When administrative enforcement decisions are made by administrative organs in response to a request, the parties should truthfully submit relevant materials to the administrative organs and provide truthful information.

If an administrative organ believes an application does not conform to legal

责任。

第七十三条行政机关在作出行政执法决定之前，应当告知当事人、利害关系人享有陈述意见、申辩的权利，并听取其陈述和申辩。

对于当事人、利害关系人的陈述和申辩，行政机关应予以记录并归入案卷。

对当事人、利害关系人提出的事实、理由和证据，行政机关应当进行审查，并采纳其合理的意见；不予采纳的，应当说明理由。

第七十四条具有下列情形之一的，行政机关在作出行政执法决定前应当举行听证会：

（一）法律、法规、规章规定应当举行听证会的；

（二）行政机关依法告知听证权利后，当事人、利害关系人申请听证的；

（三）行政机关认为必要的；

（四）当事人、利害关系人申请，行政机关认为确有必要的。

第四节 决定

第七十五条一般行政执法决定应当由行政机关主要负责人或者分管负责人决定。

重大行政执法决定应当由行政机关负责人集体讨论决定。

requirements, the burden of proof shall be borne by the administrative organ.

Article 73. Administrative organs should inform the parties and interested parties that they have the right to make statements and present their case, and should listen to their statements and pleadings before making decisions on administrative enforcement.

Administrative organs should record the statements and arguments of the parties and

interested parties and enter them into the case files.

Administrative organs should examine the facts, reasons, and evidence provided by the parties and interested parties, and adopt opinions that are reasonable. When opinions are not adopted, the reasons should be explained.

Article 74. Before making decisions on administrative enforcement, administrative organs should hold hearings under any one of the following circumstances:

(1) A hearing is required by laws, regulations or rules;

(2) After being informed about their right to a hearing, the parties and interested parties have applied for a hearing;

(3) An administrative organ believes a hearing is necessary; or

(4) Upon application by the parties or interested parties, the administrative organs believe it is really necessary to hold a hearing.

Section 4. Decisions

Article 75. Decisions on ordinary administrative enforcement matters should be decided by the principal responsible persons of the administrative organs or the government officials responsible for the matters.

Decisions on major administrative enforcement matters should be decided through collective discussion by the responsible persons of the

对涉及经济社会发展全局、影响公共利益以及专业性、技术性强的重大行政执法事项，应当经专家论证或评审以后，作出决定。

第七十六条行政执法决定自送达之日起生效。

行政执法决定附条件或者附期限的，应当载明效力的条件或者期限。

第七十七条行政执法决定文书应当载明以下事项：

- (一) 当事人的基本情况；
- (二) 事实以及证明事实的证据；
- (三) 适用的法律规范；
- (四) 决定内容；
- (五) 履行的方式和时间；
- (六) 救济的途径和期限；
- (七) 行政机关的印章与日期；
- (八) 其他应当载明的事项。

行政执法决定文书应当采用制作式；适用简易程序的，可以采用格式化文书。

第七十八条行政执法决定文书应当充分说明决定的理由，说明理

administrative organs.

Major administrative enforcement matters that involve the overall situation of economic and social development, affect public interests or involve a high degree of expertise or technicality should be decided following argumentation or examination and appraisal by experts.

Article 76. A decision on administrative enforcement shall come into force on the day it is delivered.

When a decision on administrative enforcement is subject to conditions or time limits, the conditions or time limits to effectiveness should be expressly stated.

Article 77. An administrative enforcement decision document should state the following matters:

- (1) The basic information concerning the parties;
- (2) The facts and evidence that prove the facts;
- (3) The applicable laws and norms;
- (4) The contents of the decision;
- (5) The manner and the time for implementation;
- (6) The channels and time limits for remedies;
- (7) The seal of the administrative organ and date; and
- (8) Other matters that should be expressly stated.

Administrative enforcement decision documents should be made separately for each case. When summary procedures are applicable, form documents may be used.

Article 78. Administrative enforcement decision documents should contain full

由包括证据采信理由、依据选择理由和决定裁量理由。

行政执法决定文书不说明理由，仅简要记载当事人的行为事实和引用执法依据的，当事人有权要求行政机关予以说明。

第七十九条行政机关应当建立行政执法案卷。

公民、法人或者其他组织可以查阅与其相关的行政执法案卷，但是依法应当保密的除外。

第五节 期限

第八十条法律、法规、规章对行政执法事项有明确期限规定的，行政机关必须在法定的期限内办结。

行政机关应当通过优化工作流程，提高办事效率，使实际办结的行政执法期限尽可能少于法定的期限。

第八十一条法律、法规、规章对行政执法事项以及非行政许可的行政审批事项没有规定办理期限的，实行限时办结制度，行政机关应当按照下列规定限时办结：

(一) 办理的事项只涉及一个行政机关的，行政机关应当自受

explanations of the reasons for the decisions. The explanations of the reasons should include reasons for admitting the evidence, reasons for the selection of evidence and reasons for the discretion used in deciding the cases.

When the administrative enforcement decision documents have only briefly recorded the facts of the parties' actions and cite the basis for enforcement but contain no explanation of the reasons, the parties have the right to request the administrative organs for explanations.

Article 79. Administrative organs should establish case files for administrative enforcement cases.

Citizens, legal persons or other organizations may retrieve and read the administrative enforcement case files concerning them except for those that should be kept confidential according to law.

Section 5. Time Limits

Article 80. When there are clear provisions in the laws, regulations and rules on the time limits of administrative enforcement matters, administrative organs must conclude the matters within the time limits stipulated by the law.

Administrative organs should, by means of optimizing their work flow and enhancing their operational efficiency, try their best to make the time used for actually concluding administrative enforcement matters shorter than the time limits stipulated by law.

Article 81. When laws, regulations and rules do not stipulate a time limit for an administrative enforcement matter or a matter concerning the administrative approval of a non-administrative licensing nature, a system of limiting the time for concluding the matter shall be implemented. The administrative organs should comply with the following time limits:

(1) If the matter at issue only involves one administrative organ, the administrative organ

理申请之日起 20 日内办结；20 日内不能办结的经本行政机关负责人批准，可以延长 10 日，并应当将延长期限的理由告知申请人；

(二) 办理的事项涉及两个以上部门的，行政机关应当自受理申请之日起 45 日内办结；45 日内不能办结的，经本级人民政府负责人批准，可以延长 15 日，并应当将延长期限的理由告知申请人；

(三) 依法应当先经下级行政机关审查或者经上级行政机关批准的事项，负责审查或者批准的行政机关应当在受理之日起 20 日内审查或者批准完毕；

(四) 行政机关依职权启动的行政执法行为，应当自程序启动之日起 60 日内办结；60 日内不能办结的，经本机关负责人批准，可以延长 30 日，并应当将延长期限的理由告知当事人。

第八十二条行政机关之间办理请示、报告、询问、答复、商洽工作等内部行政事务，应当按照简化办事程序，提高办事效率的要求，承诺办结期限，并向社会公开。

第八十三条依法不需要对申请材料实质内容进行核实的事项，

should conclude the matter within 20 days of accepting the application. If it can not be concluded within 20 days, an extension of 10 days may be granted with the approval of the responsible person in the administrative organ, and the reason for the extension should be explained to the applicant;

(2) If the matter at issue involves two or more administrative organs, the administrative organs should conclude the matter within 45 days of accepting the application. If it cannot be concluded within 45 days, an extension of 15 days may be granted with the approval of the responsible person of the people's government at the same level, and the reason for the extension should be explained to the applicant;

(3) For matters that should be examined first by administrative organs at a lower level or approved by administrative organs at a higher level, the administrative organs responsible for the examination or approval of the matters should conclude their examination or approval within 20 days of accepting a case; and

(4) Administrative enforcement actions initiated within their authority by administrative organs should be concluded within 60 days of initiating the procedures. If the actions cannot be concluded within 60 days, an extension of 30

days may be granted with the approval of the responsible persons in the administrative organs, and the reason for the extension shall be explained to the parties.

Article 82. Internal matters such as seeking instructions, reporting, inquiring, replying and carrying out consultations among administrative organs should be done in accordance with the requirements of streamlining their work procedure and enhancing their work efficiency. Administrative organs shall make a commitment to a time limit and make it public to society.

Article 83. When applicants have submitted complete materials in the legally required

申请人提交的申请材料齐全、符合法定形式的，行政机关应当当场办理，当场作出书面决定。

第八十四条行政机关应当按照高效便民的原则和本规定的要求，具体确定本机关每项行政执法事项、非行政许可的行政审批事项、内部行政事务的办理时限，并报本级人民政府备案。

办理的事项涉及两个以上部门的，本级人民政府应当明确规定该事项的办理流程和各部门的办理时限。

行政机关应当将经本级人民政府备案的每项行政执法事项、非行政许可的行政审批事项、内部行政事务的办理时限分解到本机关具体的工作机构和岗位，并编制行政事项办理流程时限表，向社会公布。

第八十五条行政机关作出行政执法决定，依法需要听证、招标、拍卖、检验、检测、检疫、鉴定、专家评审和公示的，所需时间不计算在规定的期限内。

行政机关应当将所需时间书面

format with respect to matters that, according to law, do not need an examination of the substantive contents of the application materials, administrative organs should handle the applications on the spot and make written decisions right there and then.

Article 84. Administrative organs should, in accordance with the principles of being highly efficient and convenient for the people as well as the requirement of these Provisions, establish in specific terms every administrative enforcement matter, non-administrative licensing administrative approval matter and the time limit for handling internal administrative matters, and submit them to the people's government at the same level for the record.

If the matter to be handled involves two or more departments, the people's government at the same level should clearly stipulate the work flow of that matter and the time limits for the work to be done by each department.

Administrative organs should break down each of the administrative enforcement matters, non-administrative licensing administrative approval matters and the time limits for handling internal administrative matters that have been submitted to the people's government at the same level for the record, distribute the break-downs to specific functional units and posts of the administrative organs, develop a table of the work flow and time limits for handling the administrative matters, and make the table public to society.

Article 85. When in the course of making administrative enforcement decisions, administrative organs are required by law to hold hearings, public biddings or auctions, conduct tests and examinations, engage in testing and monitoring, establish quarantines, conduct authentications or expert examinations or make public announcements, the time required by such activities shall not count against the legal time limits.

Administrative organs should inform the parties

告知当事人。

第八十六条行政机关不得不履行法定职责或者拖延履行法定职责。

行政机关在法定期限内，非因法定或者正当事由未依职权或者未依申请启动行政执法程序的，属于不履行法定职责。

行政机关在法定期限内，非因法定或者正当事由，虽启动行政执法程序但是未及时作出行政执法决定的，属于拖延履行法定职责。

第六节简易程序

第八十七条对事实简单、当场可以查实、有法定依据且对当事人合法权益影响较小的事项，行政机关可以适用简易程序作出行政执法决定，法律、法规对简易程序的适用范围另有规定的，从其规定。

第八十八条行政机关对适用简易程序的事项可以口头告知当事人行政执法决定的事实、依据和理由，并当场听取当事人的陈述与申辩。

当事人提出的事实、理由或者证据成立的，行政机关应当采纳。不采纳的应当说明理由。

in writing of the time actually needed.

Article 86. Administrative organs may not refuse to perform their legal duties and responsibilities or procrastinate in performing their legal duties and responsibilities.

If an administrative organ fails, for reasons other than a legal requirement or a proper reason, to initiate an administrative enforcement procedure on its own authority or in response to a request within the legal time limit, it is liable for not performing its legal duties and responsibilities.

If an administrative organ initiated the administrative enforcement procedure within the legal time limit but failed, for reasons other than a legal requirement or a proper reason, to make a timely administrative enforcement decision, it shall be considered to be a procrastination in performing its legal duties and responsibilities.

Section 6. Summary Procedures

Article 87. On matters where the facts are simple and can be checked and confirmed on the spot, that have a legal basis and that will have a relatively minor effect on the lawful rights and interests of the parties, administrative organs may make administrative enforcement decisions by using summary procedures. If laws or regulations have other provisions on the scope of the use of summary procedures, those provisions shall prevail.

Article 88. Administrative organs may orally inform the parties about the facts, basis and the reasons for administrative enforcement decisions on matters where summary procedures are used and listen to the statements and arguments of the parties on the spot. When the facts, reasons or evidence put forward by the parties are tenable, the administrative organs should accept them. For those that are not accepted, the reasons should be explained.

第八十九条适用简易程序的，可以当场作出行政执法决定。

行政执法人员当场作出行政执法决定的，应当报所属机关备案。

行政执法决定可以以格式化的方式作出。

第七节 裁量权基准

第九十条本规定所称裁量权基准，是指行政机关依职权对法定裁量权具体化的控制规则。

第九十一条法律、法规和规章规定行政机关有裁量权的，应当制定裁量权基准，对裁量权予以细化、量化。

裁量权基准由享有裁量权的行政机关制定，或者由县级以上人民政府制定。

裁量权基准的制定程序，按照规范性文件的制定程序办理。

裁量权基准应当向社会公开。

上级行政机关已经制定裁量权基准的，下级行政机关原则上不再制定适用范围相同的裁量权基准。

行政机关应当遵守裁量权基准。

Article 89. Administrative enforcement decisions may be made on the spot when the summary procedures are used.

When decisions are made on the spot by administrative enforcement personnel, they should be filed for the record with the administrative organs where such personnel work.

Form documents may be used for administrative enforcement decisions.

Section 7. Standards for Administrative Discretion

Article 90. Standards for administrative discretion as referred to in these Provisions means the controlling rules made by administrative organs within their authority in order to make their discretionary powers under the law more specific.

Article 91. When laws, regulations or rules stipulate that an administrative organ has discretionary power, standards for exercising such administrative discretion should be formulated to detail and quantify the discretionary power.

The standards for administrative discretion shall be formulated by the administrative organs that have the discretionary power, or by people's governments at the county level and above.

The procedure for formulating the standards for administrative discretion shall follow the procedures for formulating normative documents.

The standards for administrative discretion should be made public to the society.

When the administrative organs at a higher level have already formulated the standards for administrative discretion, the administrative organs at a lower level shall not, in principal, also formulate standards for administrative discretions with the same scope of application. Administrative organs should comply with the standards for administrative discretion.

第九十二条行政机关应当根据下列情形，制定裁量权基准：

（一）所依据的法律、法规和规章规定的立法目的、法律原则；

（二）经济、社会、文化等客观情况的地域差异性；

（三）管理事项的事实、性质、情节以及社会影响；

（四）其他可能影响裁量权合理性的因素。

第五章 特别行为程序和应急程序

第一节 行政合同

第九十三条本规定所称行政合同，是指行政机关为了实现行政管理目的，与公民、法人或者其他组织之间，经双方意思表示一致所达成的协议。

行政合同主要适用于下列事项：

（一）政府特许经营；
（二）国有土地使用权出让；

（三）国有资产承包经营、出售或者出租；

（四）政府采购；

（五）政策信贷；

（六）行政机关委托的科研、咨询；

（七）法律、法规、规章规定可以订立行政合同的其他事项。

第九十四条订立行政合同应当遵循竞争原则和公开原则。

Article 92. When formulating standards for administrative discretion, the administrative organs should take into consideration the following circumstances:

(1) The legislative purpose of and legal principles stipulated by the underlying law, regulations and rules;

(2) Regional differences in the economic, social, cultural and other objective conditions;

(3) The facts, nature, circumstances and social impact of the matters under management; and

(4) Other factors that might affect the reasonableness of the exercise of administrative discretionary power.

Chapter V. Procedures for Special Actions and Emergency Response

Section 1. Administrative Contracts

Article 93. Administrative contracts as referred to in these Provisions are agreements concluded by administrative organs, in order to achieve their goals of administrative management, with citizens, legal persons and other organizations through consensus reached by both parties.

Administrative contracts shall mainly be used for the following matters:

(1) Operations licensed by the government;

(2) Assignment of the right to use state-owned land;

(3) The contracting, sale or lease of state-owned assets;

(4) Government procurement;

(5) Credit provided due to government policy;

(6) Scientific research and consultancy projects entrusted by the administrative organs; and

(7) Other matters for which administrative contracts may be concluded as prescribed by the laws, regulations and rules.

Article 94. Administrative contracts should be concluded in accordance with the principles of competition and openness.

订立行政合同一般采用公开招标、拍卖等方式。招标、拍卖适用《中华人民共和国招标投标法》、《中华人民共和国拍卖法》、《中华人民共和国政府采购法》等有关法律、法规、规章规定。

法律、法规、规章对订立行政合同另有规定的，从其规定。

第九十五条行政合同应当以书面形式签订。

第九十六条行政合同依照法律、法规规定须经其他行政机关批准或者会同办理的，经过其他行政机关批准或者会同办理后，行政合同才能生效。

第九十七条行政机关有权对行政合同的履行进行指导和监督，但是不得对当事人履行合同造成妨碍。

第九十八条行政合同受法律保护，行政机关不得擅自变更或者解除。

第二节 行政指导

第九十九条本规定所称行政指导，是指行政机关为实现特定的行政目的，在其法定的职权范围内或者依据法律、法规、规章和政策，以指导、劝告、提醒、建议等非强制性方式，引导公民、法人和其他组织作出或者不作出某种行为的活动。

Administrative contracts shall generally be concluded by such means as public bidding or auctions. The provisions of the Bidding Law of the People's Republic of China, Auction Law of the People's Republic of China, Government Procurement Law of the People's Republic of China and other relevant laws, regulations and rules shall be applicable to the procedures for bidding and auctions.

If laws, regulations and rules have provided otherwise for the conclusion of administrative contracts, those provisions shall apply.

Article 95. Administrative contracts should be in written form and signed.

Article 96. When an administrative contract has to be approved by or handled jointly with other administrative organs according to the provisions of law or administrative regulations, such administrative contract may become effective only after it is approved or handled jointly by the other administrative organs.

Article 97. Administrative organs have the right to carry out guidance and supervision of the performance of administrative contracts, but may not impede the performance of the contracts by the parties.

Article 98. Administrative contracts are protected by the law. Administrative organs may not modify or terminate any administrative contract without authorization.

Section 2. Administrative Guidance

Article 99. Administrative guidance as referred in these Provisions means administrative actions taken by an administrative organ to guide citizens, legal persons and other organizations to take or not to take certain actions by providing guidance, persuasion, reminders, suggestions or other non-coercive means within the administrative organ's legal authority or in accordance with the law,

regulations, rules or policies and so as to achieve specific administrative objectives.

第一百条当事人有权自主决定是否接受、听从、配合行政指导。行政机关在实施行政指导的过程中，不得采取或者变相采取强制措施迫使当事人接受行政指导，并不得因当事人拒绝接受、听从、配合行政指导而对其采取不利措施。

Article 100. A party has the right to decide by himself whether to accept, listen to or cooperate with administrative guidance. In the process of conducting administrative guidance, administrative organs may not openly or covertly adopt coercive measures to force the party to accept the administrative guidance, and may not take measures unfavorable to the party just because the party has refused to accept, listen to, or cooperate with the administrative guidance.

第一百零一条行政指导主要适用于下列情形：

Article 101. Administrative guidance is mainly applicable to the following circumstances:

（一）需要从技术、政策、安全、信息等方面帮助当事人增进其合法利益；

(1) When it is necessary to assist the parties in respect of techniques, policies, safety, or information to help them enhance their lawful interests;

（二）需要预防当事人可能出现的妨害行政管理秩序的违法行为；

(2) When it is necessary to prevent parties' potential unlawful actions that are harmful to the administrative management order; and

（三）其他需要行政机关实施行政指导的情形。

(3) Other circumstances where it is necessary for administrative organs to carry out administrative guidance.

第一百零二条行政指导采取以下方式实施：

Article 102. Administrative guidance shall be provided using the following methods:

（一）制定和发布指导、诱导性的政策；

(1) Formulating and issuing policies of a guiding and leading nature;

（二）提供技术指导和帮助；

(2) Providing technical guidance and assistance;
(3) Publicizing information;

（三）发布信息；

(4) Showcasing, leading and reminding;

（四）示范、引导、提醒；

(5) Proving suggestions, advice and persuasion;
and

（五）建议、劝告、说服；

(6) Other methods of giving guidance.

（六）其他指导方式。

第一百零三条实施行政指导可以

Article 103. Administrative guidance may be provided in written form, oral form or other

采取书面、口头或者其他合理形式。当事人要求采取书面形式的，行政机关应当采取书面形式。

reasonable forms. When the parties demand the guidance be provided in writing, administrative organs should put it in writing.

第一百零四条行政机关可以主动实施行政指导，也可以依当事人申请实施行政指导。

Article 104. Administrative organs may conduct administrative guidance on their own initiative or in response to a party's application.

第一百零五条行政指导的目的、内容、理由、依据、实施者以及背景资料等事项，应当对当事人或者公众公开，涉及国家秘密和依法受到保护的商业秘密或者个人隐私的除外。

Article 105. Matters such as the purposes, contents, reasons, basis, executors and background information for administrative guidance should be disclosed to the parties or the general public, except those involving state secrets, commercial secrets that are protected according to the law or the privacy of individuals.

第一百零六条实施行政指导涉及专业性、技术性问题的，应当经过专家论证，专家论证意见应当记录在案。

Article 106. When administrative guidance involves matters of a professional or technical nature, expert argumentation should be conducted and the opinions of the participating experts should be recorded in the files.

第一百零七条行政机关实施重大行政指导，应当采取公布草案、听证会、座谈会、开放式听取意见等方式，广泛听取公民、法人或者其他组织的意见。听取意见的程序参照行政决策程序有关规定。

Article 107. When conducting major administrative guidance, administrative organs should extensively listen to the opinions of citizens, legal persons and other organizations by means of publishing the draft guidance, holding hearings, discussion forums, listening to opinions in an open manner, etc. The procedures for listening to opinions shall be followed with reference to the relevant provisions of the procedures for administrative decision-making.

第一百零八条行政机关实施行政指导，应当告知当事人有自由选择的权利，当事人有权陈述意见。

Article 108. When conducting administrative guidance, administrative organs should inform the parties they have the right of free choice and the right to state their opinions.

行政机关应当认真听取、采纳当事人合理、可行的意见。

Administrative organs should conscientiously solicit the opinions of the parties and accept those that are reasonable and feasible.

第三节行政裁决

第一百零九条本规定所称行政裁决，是指行政机关根据法律、法规的授权，处理公民、法人或者其他组织相互之间发生的与其行政职权密切相关的民事纠纷的活动。

第一百一十条公民、法人或者其他组织申请行政裁决，可以书面申请，也可以口头申请。口头申请的，行政机关应当当场记录申请人的基本情况、行政裁决请求、申请行政裁决的主要事实、理由和时间。

行政机关收到公民、法人或者其他组织申请后，应当在5日内审查完毕，并根据下列情况分别作出处理：

（一）申请事项属于本机关管辖范围内的，应当受理，受理后5日内，应当将申请书副本或者申请笔录复印件发送给被申请人；

（二）申请事项不属于本机关管辖范围内的，应当告知申请人向有关行政机关提出；

（三）申请事项依法不能适用行政裁决程序解决的，不予受理，并告知申请人。

第一百一十一条被申请人应当自收到申请书副本或者申请笔录复

Section 3. Administrative Adjudication

Article 109. Administrative adjudication as referred to in these Provisions means those actions taken by administrative organs, as authorized by law and regulations, to deal with civil disputes that occur among citizens, legal persons and other organizations and that are closely related to their administrative responsibilities and duties.

Article 110. When applying for administrative adjudication, citizens, legal persons and other organizations may do so in writing. They may also do so orally. When the application is made orally, the administrative organ should make a record of the basic information of the applicant, the request for administrative adjudication, the main facts and reasons and the time of the application for administrative adjudication. After receiving an application from citizens, legal persons or other organizations, the administrative organ should finish its examination of the application within five days, and handle it as specified respectively in the following circumstances:

(1) If the matters in the application fall in the jurisdictional scope of the administrative organ, the application should be accepted. A copy of a written application or photocopy of the written record of an oral application should be delivered to the respondent within five days of accepting the application;

(2) If the matters in the application do not fall within the jurisdictional scope of the administrative organ, the applicant should be informed to submit its application to the competent administrative organ; and

(3) If the matters in the application may not, according to the law, be settled by using the procedure of administrative adjudication, the case shall not be accepted and the applicant shall be so informed.

Article 111. Within 10 days of the receipt of a copy of the written application or a photocopy of the written record of an oral application, the

印件之日起 10 日内，向行政机关提交书面答复及相关证据材料。

行政机关应当在收到被申请人提交的书面答复之日起 5 日内，将书面答复副本发送申请人。

申请人、被申请人可以到行政机关查阅、复制、摘抄案卷材料。

第一百一十二条行政机关审理行政裁决案件，应当由 2 名以上工作人员参加。

双方当事人对主要事实没有争议的，行政机关可以采取书面审查的办法进行审理。

双方当事人对主要事实有争议的，行政机关应当公开审理，充分听取双方当事人的意见，依法不予公开的除外。

行政机关认为必要时，可以实地调查核实证据；对重大、复杂的案件，申请人提出要求或者行政机关认为必要时，可以采取听证的方式审理。

行政机关应当先行调解，调解不成的，依法作出裁决。

第一百一十三条行政机关作出裁决后应当制作行政裁决书。行政裁决书应当载明：

(一) 双方当事人的基本情况；

respondent should submit to the administrative organ a written reply and relevant evidentiary materials.

Within five days of the receipt of the written reply submitted by the respondent, the administrative organ should deliver a copy of the written reply to the applicant.

The applicant and the respondent may go to the administrative organ to retrieve and read, duplicate or copy excerpts of the materials in the case file.

Article 112. When handling a case of administrative adjudication, the administrative organ should have two or more staff members participating.

If there is no dispute between the two parties over the major facts of the case, the administrative organ may handle the case by examining the written documents.

If there are disputes between the two parties over the major facts of the case, the administrative organ should handle the case publicly and fully listen to the opinions of both parties, except in cases that by law may not be made public.

If the administrative organ believes it to be necessary, a field investigation may be carried out to check the evidence. In major and complex cases, if the applicant raises the request or if the administrative organ believes it is necessary, the case may be handled by means of holding hearings.

The administrative organ should mediate first; if mediation is not successful, an adjudication shall be rendered in accordance with the law.

Article 113. After rendering an adjudication, the administrative organ should produce an administrative adjudication document. The administrative adjudication document should expressly state:

- (1) The basic information about the two parties;
- (2) The facts of the dispute;

- | | |
|-----------------|--|
| (二) 争议的事实; | (3) The established facts; |
| (三) 认定的事实; | (4) The applicable laws and norms; |
| (四) 适用的法律规范; | (5) The contents and reasons of the adjudication; |
| (五) 裁决内容及理由; | (6) The channels and time limits for remedies; |
| (六) 救济的途径和期限; | (7) The seal of the administrative organ and the date of the adjudication; and |
| (七) 行政机关的印章和日期; | (8) Other matters that should be expressly stated. |
| (八) 其他应当载明的事项。 | |

第一百一十四条行政机关应当自受理申请之日起 60 日内作出裁决，情况复杂的，经本行政机关主要负责人批准，可以延长 30 日作出裁决，并应当将延长期限告知申请人。

Article 114. Administrative organs should make adjudications within 60 days after applications are accepted. If the circumstances are complicated, an adjudication may be postponed for 30 days with the approval of the principal responsible persons of the administrative organs, and the applicant should be informed about the extended time limits.

第四节行政调解

Section 4. Administrative Mediation

第一百一十五条本规定所称行政调解，是指行政机关为化解社会矛盾、维护社会稳定，依照法律、法规、规章和有关规定，居间协调处理公民、法人或者其他组织相互之间民事纠纷的活动。

Article 115. Administrative mediation as referred to in these Provisions means actions taken by the administrative organs to coordinate and handle civil disputes among citizens, legal persons and other organizations in accordance with the provisions of the laws, regulations, rules and relevant provisions for resolving social tensions and safeguarding social stability. These Provisions shall not apply to the mediation of administrative disputes by administrative organs

行政机关调解行政争议不适用本规定。

第一百一十六条行政机关应当遵循自愿、合法、公正的原则，及时进行行政调解。

Article 116. Administrative organs shall promptly carry out administrative mediation in accordance with the principles of being voluntary, lawful and just.

行政机关可以根据公民、法人或者其他组织的申请进行行政调

Administrative organs may carry out mediation on the basis of applications made by citizens, legal persons or other organizations. They may

解，也可以主动进行行政调解。

also initiate administrative mediations on their own initiative.

第一百一十七条同时符合下列条件的民事纠纷，行政机关应当进行调解：

Article 117. Administrative organs should carry out mediation in civil disputes that meet all the following conditions:

（一）与行政机关职责相关的；

(1) The dispute relates to the authority of the administrative organs;

（二）民事纠纷双方同意调解的；

(2) Both parties to the civil disputes agree to the mediation; and

（三）法律、法规、规章没有禁止性规定的。

(3) There is no provision prohibiting mediation in the laws, regulations or rules.

第一百一十八条行政机关收到公民、法人或者其他组织请求调解民事纠纷的申请后，经审查符合条件的，应当及时告知民事纠纷另一方；另一方同意调解的，应当受理并组织调解。

Article 118. After it has received an application from a citizen, legal person or other organization requesting mediation in a civil dispute and an examination has shown that the application meets all the conditions, an administrative organ should promptly inform the other party to the dispute. If the other party agrees to the mediation, the case should be accepted and mediation should be organized.

不符合条件或者一方不同意调解的不予受理，并向申请人说明理由。

A case shall not be accepted if fails to meet all the conditions or if one of the parties does not agree to the mediation. The reasons therefor shall be explained to the applicant.

第一百一十九条民事纠纷双方自愿调解的，行政机关应当指派具有一定法律知识、政策水平和实际经验的工作人员主持调解。

Article 119. If both parties to a civil dispute wish to have mediation, the administrative organ concerned should assign a staff member who possesses a certain degree of legal knowledge, policy aptitude and actual experience to preside over the mediation.

第一百二十条行政机关调解人员应当在查明事实、分清是非的基础上，根据纠纷双方特点和纠纷性质、难易程度、发展变化的情况，采取多种方式，做好说服疏导工作，引导、帮助纠纷双方达成调解协议。

Article 120. The mediating personnel of an administrative organ should adopt various ways and means, on the basis of clarifying the facts and clearly distinguishing right from wrong, and in light of the characteristics of the two parties to the dispute as well as the nature, level of difficulty, and development of the dispute, to do a good job of persuading, guiding, leading and helping the parties to a dispute to reach

行政机关应当通过调解活动防止纠纷激化。

调解应当制作笔录。一般应当在 30 日内调结。

第一百二十一条调解达成协议的，根据民事纠纷双方的要求或者需要，可以制作调解协议书。调解协议书应当有民事纠纷双方和调解人员的签名，并加盖行政机关印章。调解协议书一式 3 份，行政机关和协议双方各执一份。

民事纠纷双方当事人应当履行调解协议。

调解没有达成协议的，民事纠纷双方可依法提起民事诉讼。

第五节行政应急

第一百二十二条行政机关采取行政应急措施应对自然灾害、事故灾难、公共卫生事件和社会安全事件等突发事件，除适用《中华人民共和国突发事件应对法》等应急法律、法规、规章的有关规定外，还适用本节的规定。

第一百二十三条各级人民政府和县级以上人民政府有关部门应当制定突发事件应急预案，建立健全突发事件监测制度和预警制度。

可以预警的自然灾害、事故灾难或者公共卫生事件即将发生或者发生的可能性增大时，县级以

agreement through mediation.

Administrative organs should use mediation to prevent intensification of disputes.

Written records should be kept of mediations. A mediation should generally be concluded within 30 days.

Article 121. When an agreement is reached through mediation, a mediation agreement document may be produced in accordance with the request or need of the parties. The mediation agreement document should be signed by the parties to the civil dispute and the mediation personnel, and be affixed with the seal of the administrative organ concerned. The mediation agreement shall be in triplicate, and the administrative organ and each party to the agreement shall keep one copy.

The parties to a civil dispute should perform the mediation agreement.

If mediation fails to yield an agreement, the parties to a civil dispute may file a civil lawsuit in accordance with the law.

Section 5. Administrative Emergency Response

Article 122. When administrative organs adopt administrative contingency measures to cope with emergencies such as natural disasters, accidental catastrophes, public health incidents and public safety incidents, aside from the relevant provisions of the Emergency Response Law of the People's Republic of China and other emergency laws, regulations and rules, the provisions of this Section shall also apply.

Article 123. People's governments at all levels and the relevant functional departments of people's governments at the county level and above should formulate contingency plans for emergencies, and establish and perfect systems for emergency surveillance and early warning. When natural disasters, accidental catastrophes or public health incidences for which early warnings can be given are about to occur, or the

上人民政府应当根据法定和规定的权限和程序，发布相应级别的警报，决定并宣布有关地区进入预警期，启动应急预案，及时、有效采取措施，控制事态发展。

第一百二十四条突发事件发生后，行政机关为应对突发事件依法作出行政决策，制定发布决定、命令，采取行政征用、行政强制、行政指导等应急处置措施，根据应对突发事件的需要，可以灵活确定上述行政应急行为的步骤、方式、形式、顺序和时限，变通或者部分省略有关行政程序。

采取影响公民、法人和其他组织权益的行政应急处置措施时，应当履行表明身份、告知事由、说明理由等程序义务。

突发事件的威胁和危害得到控制或者消除后，行政机关应当停止执行行政应急程序。县级以上人民政府作出应对突发事件的决定、命令，应当报本级人民代表大会常务委员会备案。

第一百二十五条行政机关及其工

likelihood of their occurrence has increased, people's governments at the county level and above should issue an appropriate level of warning in accordance with the legal and designated authority and procedures, decide on and declare that relevant areas are subject to an early warning, initiate emergency response plans, and promptly and effectively adopt measures to bring the situation under control.

Article 124. After the occurrence of emergency incidents, administrative organs shall make administrative decisions regarding the response to the emergency incidents in accordance with the law, formulate and release decisions and orders, and adopt emergency executive measures such as administrative requisition, administrative coercion and administrative guidance. The steps, modalities, formats, sequences and time limits of the above-mentioned administrative emergency actions may be determined flexibly in light of the demand of responding to the emergency, and the relevant administrative procedures may be changed or partially omitted.

When adopting administrative emergency response executive measures that will affect the rights and interests of citizens, legal persons or other organizations, the obligations under relevant administrative procedures such as clearly showing one's ID, providing information about the matters in question, clearly explaining the reasons, etc. shall be carried out.

After the threats and damage from an emergency incident are brought under control or eliminated, administrative organs should stop the execution of the administrative emergency response procedures. The decisions and orders made and executed by people's governments at the county level and above for responding to the emergency incidents should be filed for the record with the standing committee of the people's congress at the same level.

Article 125. When executing administrative

作人员实施行政应急行为，不得超越职权、滥用职权、徇私枉法。

行政机关采取行政应急措施，应当与突发事件可能造成的社会危害的性质、程度和范围相适应；有多种措施可供选择的，应当选择有利于最大程度地保护公民、法人和其他组织权益的措施。

第一百二十六条县级以上人民政府及其有关工作部门应当建立应急管理专家咨询组织，为行政应急提供决策建议、专业咨询和技术支持，必要时参加突发事件的应急处置工作。

行政机关作出行政应急决策、采取应急处置和救援措施时，应当听取有关专家的意见，实行科学决策，科学应对。

第一百二十七条行政机关应当按照有关规定及时、客观、真实地向上级机关报告突发事件信息，并向有关地区和部门通报。有关单位和人员不得迟报、谎报、瞒报、漏报突发事件信息。

行政机关应当按照有关规定，通过广播、电视、报刊、网络等各种媒体，采取授权发布、散发新闻稿、组织报道、接受记者采

emergency response actions, administrative organs and their staff members may not exceed their authority, abuse their powers or bend the law for personal interests.

The administrative emergency response measures taken by administrative organs should be commensurate with the nature, degree and scope of the social damage that might be caused by an emergency incident. When there are multiple alternatives to choose from, those measures conducive to maximizing protection of the rights and interests of citizens, legal persons and other organizations should be chosen.

Article 126. People's governments at the country level and above and their relevant functional departments should establish emergency management expert advisory organizations to provide the administrative emergency response operations with decision-making recommendations, professional advice and technical support, and to participate in the management of the emergency incident if necessary.

When making administrative emergency response decisions and taking emergency response executive actions and rescue measures, administrative organs should listen to the opinions of relevant experts before making decisions and responses in a scientific manner.

Article 127. Administrative organs should promptly, objectively and truthfully report to their superior organs any information concerning the emergency incident in accordance with the relevant rules, and inform the relevant areas and departments. The administrative organs concerned and their staff members may not delay in reporting or falsely report information concerning the emergency incident or hide or omit facts in their reporting. Administrative organs should, in accordance with relevant rules, publicly release to society any information concerning the occurrence, development and contingency management of

访、举行新闻发布会等多种方式，统一、准确、及时地向社会公开发布突发事件发生、发展和应急处置的信息。

行政机关应对突发事件的决定、命令应当向社会公布。

第一百二十八条行政机关和突发事件发生地的基层组织及有关单位，应当动员、组织公民、法人或者其他组织参加应急救援和处置工作，要求具有特定专长的人员为处置突发事件提供服务，鼓励公民、法人和其他组织为应对突发事件提供支持。

公民、法人和其他组织有义务参与突发事件应对工作，应当服从人民政府发布的决定、命令，配合行政机关采取的应急处置措施，积极参加应急救援和处置工作。

第一百二十九条行政机关为应对突发事件征用单位和个人的财产，在使用完毕或者突发事件应急处置结束后，应当及时返还。财产被征用或者征用后毁损、灭失的，应当给予补偿。

an emergency incident in a unified, accurate and timely manner through radio broadcasts, television, newspapers, magazines, the Internet and other media and by means of authorizing public announcements, issuing press releases, organizing news coverage, giving press interviews, holding press conferences, etc. Decisions and orders made by administrative organs in response to an emergency incident should be made public to society.

Article 128. Administrative organs and grassroots organizations and relevant units at the place where an emergency incident has occurred should mobilize and organize citizens, legal persons and other organizations to take part in the emergency response disaster relief and damage-alleviation work, request people with particular expertise to provide services in response to the emergency incident, and encourage citizens, legal persons and other organizations to provide support to cope with the emergency incident.

Citizens, legal persons or other organizations have the duty to participate in the work of responding to an emergency incident. They should comply with the decisions and orders issued by the people's government, cooperate with the emergency response measures taken by the administrative organs, and take an active part in the emergency relief and alleviation work.

Article 129. Property of units or individuals that has been requisitioned by administrative organs in response to an emergency incident should be returned promptly after it has served its purpose or after the emergency alleviation work in response to the emergency incident has been concluded. Compensation should be made for any requisitioned property that was damaged or lost because of such requisitioning.

第六章 行政听证

Chapter VI. Administrative Hearings

第一节 一般规定

第一百三十条行政听证应当公开举行，涉及国家秘密和依法受到保护的商业秘密、个人隐私的除外。

第一百三十一条听证主持人应当具备相应的法律知识和专业知识。听证主持人应当经政府法制部门统一组织培训。

听证主持人由行政机关负责人指定。行政机关直接参与行政决策方案制定的人员不得担任该行政决策听证主持人。行政机关调查人员不得担任该行政执法听证主持人。

第一百三十二条听证主持人行使下列职权：

- (一) 指挥听证会的进行；
- (二) 维持听证会秩序；
- (三) 指定记录员；

(四) 其他应当由听证主持人行使的职权。

第一百三十三条听证记录员负责听证会的记录以及其他与听证会有关的事项。

记录员应当对听证过程作准确、全面的记录。

Section 1. General Stipulations

Article 130. Administrative hearings should be held in an open manner except when state secrets, commercial secrets that are protected in accordance with the law, or the privacy of individuals are involved.

Article 131. Persons who preside over hearings should have corresponding legal knowledge and professional knowledge. Persons who preside over hearings should be trained by the legislative affairs department of the people's government in a unified way.

Persons who preside over hearings shall be designated by the responsible persons in the administrative organs. No person in an administrative organ who has directly participated in formulating an administrative decision-making plan may preside over the hearings for that specific administrative decision-making. The investigation personnel of an administrative organ may not preside over the hearings for that specific administrative enforcement matter.

Article 132. Persons who preside over hearings shall exercise the following functions and authority:

- (1) Conducting the proceedings of the hearing;
- (2) Maintaining the order of the hearing;
- (3) Appointing the recorder; and
- (4) Other functions and authority that should be exercised by persons who preside over a hearing.

Article 133. The recorder shall be responsible for making a record of the hearing and other matters relevant to the hearing.

The recorder should make an accurate and comprehensive record of the hearing proceedings.

第一百三十四条行政机关以及有关单位和个人不得采取欺骗、贿赂、胁迫等不正当手段，操纵听证结果。

听证主持人不得与当事人、利害关系人及其他听证参与者单方接触。

采取欺骗、贿赂、胁迫等不正当手段操纵听证结果的，其听证无效，应当重新听证。

第二节行政决策听证会

第一百三十五条行政机关举行行政决策听证会，应当在听证会举行前 15 日公告以下事项：

（一）举行听证会的时间、地点；

（二）听证的事项；

（三）公众参加听证会的报名时间、报名方式。

第一百三十六条听证会参加人应当通过自愿报名的方式产生，并具有广泛的代表性。报名参加听证会的公众人数较多，需要选择听证会代表的，行政机关应当随机选择公众代表参加听证会。

报名参加听证会的人数不多的，行政机关应当让所有报名者参加听证会，行政机关也可以邀请有关公众代表参加听证会。

听证举行前 10 日，应当告知听证代表拟作出行政决策的内

Article 134. Administrative organs and relevant organizations and individuals may not manipulate results of the hearings by fraud, bribery, coercion or other improper means.

The person presiding over a hearing may not have *ex parte* contact with the parties, interested parties or other participants in the hearing.

When the results of a hearing are manipulated by fraud, bribery, coercion or other improper means, the hearings shall be null and void and a new hearing should be held.

Section 2. Administrative Decision-Making Hearings

Article 135. Administrative organs should, 15 days before holding a hearing on an administrative decision-making matter, notify the public of the following matters:

(1) The time and place of the hearing;

(2) The subject matter of the hearing; and

(3) The time and method for the general public to register to attend the hearing.

Article 136. Participation in a hearing should be decided by means of voluntary registration, and have broad representation. When the number of people who have registered to participate in a hearing is relatively large and representatives of the public need to be selected to attend the hearing, the administrative organ should randomly select representatives of the general public to participate in the hearing.

When the number of people who have registered to participate in a hearing is not large, the administrative organ should let all registered applicants participate in the hearing. The administrative organ may also invite relevant representatives of the public to participate in the hearing.

Ten days before holding a hearing, the representatives participating in the hearing

容、理由、依据和背景资料。

should be informed about the contents, reasons, and basis and the background information of the proposed administrative decision to be made.

第一百三十七条听证会按照下列步骤进行：

Article 137. A hearing shall proceed in accordance with the following steps:

（一）主持人宣布听证会开始；

(1) The person presiding over the hearing shall declare the hearing is called to order;

（二）记录员查明听证会参加人是否到会，并宣布听证会的内容和纪律；

(2) The recorder shall check on whether the participants in the hearing are present, and announce the contents and discipline of the hearing;

（三）决策承办单位工作人员陈述；

(3) A staff member of the undertaking department shall make a statement;

（四）听证会参加人依次陈述；

(4) Participants in the hearing shall make statements in turn; and

（五）听证会参加人之间、听证会参加人与决策承办单位工作人员之间围绕听证事项进行辩论。

(5) Discussion of the subject matters of the hearing shall take place among participants in the hearing and between participants in the hearing meeting and staff members of the undertaking department.

第一百三十八条听证会参加人陈述意见应当遵守合理的时间要求，听证会参加人在规定的时间内未能详尽发表的意见，可以以书面形式提交给决策承办单位。

Article 138. When making statements at a hearing, participants should comply with reasonable time limits. If a participant cannot fully express his opinion within the stipulated time limit, he may submit a statement in writing to the undertaking department.

第一百三十九条听证会应当制作笔录，如实记录发言人的观点和理由，也可以同时进行录音和录像。听证会笔录应当经听证会参加人确认无误后签字或者盖章。

Article 139. Written records of a hearing shall be made to faithfully record the views and reasons of the speakers. Audio and video recordings may also be made at the same time. The written records of a hearing should be signed by the participants or stamped with their seals after being examined and confirmed by them for correctness.

行政机关应当充分考虑、采纳听证参加人的合理意见；不予采纳的，应当说明理由。意见采纳情况应当向社会公布。

Administrative organs should fully consider and adopt reasonable opinions of hearing participants. When opinions are not adopted, the reasons should be explained. The situation with respect to the adoption of opinions should be made public to society.

第三节行政执法听证会

第一百四十条行政机关举行行政执法听证会，应当在听证会举行 7 日前将听证会的事项书面通知当事人、利害关系人。

通知应当载明以下内容：

（一）当事人、利害关系人名称或者姓名；

（二）听证主要事项；

（三）听证会的时间、地点。

参加行政执法听证会的当事人、利害关系人人数较多的，应当按照本规定确定代表人。

举行涉及重大公共利益的行政执法听证会，应当有一定比例的公众代表参加，公众代表的产生适用行政决策听证会的有关规定。

第一百四十一条当事人、利害关系人在听证会中可以依法进行陈述、申辩和质证，查阅、复制、摘抄听证会材料。

当事人、利害关系人在听证会中应当遵守听证会纪律。

第一百四十二条听证会按照下列步骤进行：

（一）主持人宣布听证会开始；

（二）记录员查明当事人、利

Section 3. Administrative Enforcement Hearings

Article 140. When holding an administrative enforcement hearing, administrative organs should notify the parties and interested parties in writing seven days before holding the hearing, about the subject matters of the hearing.

The notice should expressly state the following contents:

(1) The names of the parties and interested persons;

(2) The main subject matters of the hearing; and

(3) The time and venue of the hearing.

If the number of parties and interested persons attending an administrative enforcement hearing is relatively large, representatives for them shall be determined in accordance with these Provisions.

When administrative enforcement hearings involve major public interests, a certain proportion of representatives of the general public should participate. The relevant provisions concerning administrative decision-making hearings shall apply to the way the representatives of the general public are selected.

Article 141. During the hearing, parties and interested parties may make statements, defend themselves, examine the evidence, and refer to, duplicate or make excerpts from the hearing materials in accordance with the law.

Parties and interested parties should comply with hearing discipline during hearings.

Article 142. Hearings shall proceed in accordance with the following steps:

(1) The person presiding over the hearing shall declare the hearing is called to order;

(2) The recorder shall check on whether the parties, interested parties and investigation

害关系人和调查人员是否到会，并宣布听证会的内容和纪律；

(三) 调查人员、当事人、利害关系人依次发言；

(四) 出示证据，进行质证；

(五) 调查人员、当事人、利害关系人对争议的事实进行辩论；

(六) 调查人员、当事人、利害关系人依次最后陈述意见。

第一百四十三条 行政机关调查人员、当事人、利害关系人在听证会结束后，应当当场阅读听证笔录，经确认无误后签字或者盖章。

行政机关调查人员、当事人、利害关系人有权对记录中的错误提出修改意见。

听证主持人应当自听证会结束之日起2日内，根据听证笔录提出处理建议，报行政机关决定。

行政机关应当根据听证笔录，作出行政执法决定。未经听证会质证的证据，不能作为作出行政执法决定的依据。

第一百四十四条 听证会结束后，行政执法决定作出前，行政机关调查人员发现新的证据，可能改变事实认定结果的，应当重新听证。

personnel are present, and announce the content and discipline of the hearing;

(3) The investigation personnel, parties and interested parties shall make statements in turn;

(4) The evidence shall be exhibited and examined;

(5) The investigation personnel, parties and interested persons shall debate the disputed facts; and

(6) The investigation personnel, parties and interested parties shall make their final statements of their opinions in turn.

Article 143. Investigation personnel of the administrative organs, parties and interested parties should read the written records of the hearing on the spot after the hearing is concluded, and sign the record or put their seals on the written record after confirming that the record is correct.

Investigative personnel of the administrative organs, parties and interested parties have the right to put forward opinions about correcting mistakes in the records.

The person who presides over a hearing should, within two days after the conclusion of the hearing, put forward suggestions for handling the case on the basis of the written record and submit them to the administrative organ for its decision.

Administrative organs should make their administrative enforcement decisions on the basis of the written records of the hearings. Evidence that is not examined at a hearing cannot be used as the basis for making an administrative enforcement decision.

Article 144. If, after the conclusion of a hearing and before the administrative enforcement decision is made, the investigation personnel of an administrative organ discover new evidence that might change the result of the establishment of the facts, a new hearing should be held.

第七章 行政公开

第一百四十五条行政机关应当将主动公开的政府信息，通过政府公报、政府网站、新闻发布会以及报刊、广播、电视等便于公众知晓的方式公开。

第一百四十六条县级以上人民政府应当以政府公报和指定的政府网站为本级政府统一的政府信息发布平台。

下列政府信息必须在县级以上人民政府的政府公报和指定的政府网站上公布：

- (一) 县级以上人民政府及其工作部门制定的规范性文件；
- (二) 本规定确定的重大行政决策结果；
- (三) 《中华人民共和国政府信息公开条例》确定的其他应当主动公开的重点政府信息。

在政府公报上公布的规范性文件文本为标准文本。县级以上人民政府及其工作部门制定的规范性文件未在政府公报、指定的政府网站上公布的，不得作为实施行政管理的依据，对公民、法人或者其他组织没有约束力。

第一百四十七条行政机关公开政府信息的场所和设施包括：

Chapter VII. Open Administration

Article 145. Administrative organs should make public government information that is to be disclosed on their own initiative through government gazettes, government websites and press conferences, as well as newspapers, magazines, radio broadcasts, television and other means that will facilitate public understanding.

Article 146. People's governments at the county level and above should make government gazettes and designated government websites the unified platform for releasing government information for the government at the same level.

The following government information must be made public in government gazettes and on designated government websites of people's governments at the county level and above:

- (1) Normative documents formulated by people's governments at the county level and above and their functional departments;
- (2) The result of any major decision-making made pursuant to these Provisions; and
- (3) Other key government information that should be disclosed on the government's own initiative identified in the Regulations of the People's Republic of China on Open Government Information.

The texts of normative documents published in government gazettes shall be the official texts. Normative documents formulated by people's governments at the county level and above and their functional departments that have not been published in government gazettes or designated government websites may not be used as the basis for performing administrative management and shall not be binding on citizens, legal persons or other organizations.

Article 147. The sites and facilities for making government information public include:

(一) 各级人民政府在国家档案馆、公共图书馆设置的政府信息公开查阅场所;

(二) 各级人民政府及其工作部门设立的政府服务中心、办事大厅;

(三) 各级人民政府及其工作部门设立的公共查阅室、资料索取点、信息公开栏、电子显示屏等。

各级人民政府及其工作部门设立的信息公开查阅场所, 应当放置政府公报, 并配置可查阅政府网站的电子设备, 方便公众查阅政府信息, 索取相关资料。

第一百四十八条除行政机关主动公开的政府信息外, 公民、法人或者其他组织可以根据自身生产、生活、科研等特殊需要, 向行政机关申请获取相关政府信息。行政机关收到政府信息公开申请后应当依法作出答复。

第一百四十九条行政机关召开涉及公众切身利益、需要公众广泛知晓和参与的行政会议, 可以公开举行, 允许公民、法人或者其他组织出席旁听。但是会议内容涉及依法不应公开的政府信息的, 不得公开举行。

(1) Sites for retrieving and reading government information set up by people's governments at all levels in state archives and public libraries;

(2) Service centers and transaction halls established by governments at all levels and their functional departments; and

(3) Public retrieving and reading rooms, sites for accessing government materials, open information bulletin boards and electronic information screens set up by people's governments at all levels and their functional departments.

Sites for retrieving and reading open government information set up by people's governments at all levels and their functional departments should be equipped with government gazettes as well as the electronic equipment that is needed for retrieving and reading information on government websites to facilitate the retrieval and reading of government information and the acquisition of relevant materials by the general public.

Article 148. In addition to the government information made public by the administrative organs on their own initiative, citizens, legal persons and other organizations may, based on the special needs of such matters as their own production, life, scientific and technical research, request and obtain relevant government information from the administrative organs. After receiving requests for open government information, the administrative organs should respond to the requests in accordance with the law.

Article 149. Administrative meetings of administrative organs on matters concerning the vital interests of the general public that need to be extensively known and participated in by the general public may be held in an open manner to allow citizens, legal persons and other organizations to attend and observe the meeting. However, if the content of a meeting

involves government information that should not be made public according to the law, the meeting may not be held in an open manner.

第一百五十条公民、法人和其他组织认为行政机关不依法履行政府信息公开义务的，可以向上级行政机关、监察机关或者政府信息公开工作主管部门举报。收到举报的机关应当予以调查处理。

公民、法人或者其他组织认为行政机关在政府信息公开工作中的具体行政行为侵犯其合法权益的，可以依法申请行政复议或者依法提起行政诉讼。

第一百五十一条行政机关应当采取措施，加快电子政务建设，推进政府上网工程，扩大政府网上办公范围。

除法律、法规、规章有禁止规定以外，行政机关实施行政管理均可以通过互联网与公民、法人或者其他组织联系，但是一方以电子文档实施法律行为，应当征得对方同意。

在电子政务活动中，行政机关与公民、法人或者其他组织的电子签章与书面签章具有同等的法律效力。

Article 150. If they believe that an administrative organ has failed to fulfill its obligation to disclose government information in accordance with the law, citizens, legal persons and other organizations may report the failure to the administrative organ at the next higher level, the supervision organs or the departments in charge of the work of open government information. The organ that receives such a report should investigate and handle the matter.

If they believe that an administrative organ has infringed their lawful rights and interests by certain specific administrative actions in the work of open government information, citizens, legal persons and other organizations may apply for administrative review in accordance with the law, or file an administrative lawsuit in accordance with the law.

Article 151. Administrative organs should adopt measures to accelerate the construction of e-government, promote government Internet projects and expand the scope of government work online.

Except when laws, regulations and rules have prohibitive provisions, administrative organs may have contacts through internet with citizens, legal persons and other organizations in the course of performing administrative management. However, if a party is to perform legal actions by using electronic documents, the consent of the other party should be obtained.

In e-government activities, the electronic signatures or seals of administrative organs and citizens, legal persons and other organizations shall have the same legal effect as their signatures or seals on written documents.

第八章 行政监督

Chapter VIII. Administrative Supervision

第一百五十二条县级以上人民政府应当加强政府层级监督，健全完善政府层级监督制度，创新政府层级监督机制和方式。

监察、审计等专门监督机关应当切实履行法定职责，依法加强专门监督。各级行政机关应当自觉接受监察、审计等专门监督机关的监督。

第一百五十三条行政机关应当接受同级人民代表大会及其常委会的监督，接受人民政协的民主监督，依照有关法律的规定接受司法机关的监督，接受新闻舆论和人民群众的监督。

第一百五十四条县级以上人民政府应当加强政府绩效管理，逐步建立健全政府绩效管理体系，实行政府绩效评估，提高行政效能。政府绩效评估应当包括行政机关履行职责、行政效率、行政效果、行政成本等内容。

政府绩效评估的标准、指标、过程和结果应当通过适当方式向社会公开。

政府绩效评估应当实行行政机关内部评估与外部评估相结合，通过召开座谈会、聘请监督评议员、组织公开评议等多种形式，广泛听取公众和社会各界的意

Article 152. People's governments at the county level and above should strengthen hierarchical supervision, perfect the system of government hierarchical supervision, and create new mechanisms and modalities of government hierarchical supervision.

Special supervision organs such as supervision and auditing departments should earnestly fulfill their legal functions, and strengthen their special supervision in accordance with the law. Administrative organs at all levels should conscientiously accept supervision by special supervision organs such as the supervision and auditing departments.

Article 153. Administrative organs should accept supervision by the people's congress at the same level and its standing committee, accept democratic supervision by the people's political consultative conference, accept supervision by the judicial organs in accordance with the provisions of relevant laws, and accept supervision by the press and public opinion as well as the general public.

Article 154. People's governments at the county level and above should strengthen the management of government performance, and gradually establish and perfect the government performance management system to implement government performance assessment and enhance administrative effectiveness.

Government performance assessment should include carrying out functions and authority by administrative organs, administrative efficiency, administrative effectiveness, administrative cost, etc.

The standards, targets, processes and results of the government performance assessment should be made public by appropriate means.

The government performance assessment should be carried out by combining the internal assessment of the administrative organs with external assessment. Various methods, such as holding discussion forums, engaging supervisory appraisers and organizing open

见，由公众和社会各界代表参与评估。

第一百五十五条县级以上人民政府应当加强对本规定实施情况的监督检查，及时纠正行政程序违法行为。

监督检查的主要方式：

（一）听取本规定实施情况的报告；

（二）开展实施行政程序工作的检查；

（三）重大行政行为登记和备案；

（四）行政执法评议考核；

（五）行政执法案卷评查；

（六）受理公众投诉、举报；

（七）调查公众投诉、举报和媒体曝光的行政程序违法行为；

（八）查处行政程序违法行为；

（九）其他监督检查方式。

第一百五十六条公民、法人或者其他组织认为行政机关的行政行为违反法定程序的，可以向其本

assessment, should be employed to extensively listen to the opinions of the general public and people of all walks of life. Representatives of the general public and people of all walks of life shall participate in the assessment.

Article 155. People's governments at the county level and above should strengthen the supervision and inspection of the implementation of these Provisions and promptly correct administrative procedure actions that violate the law.

The principal methods of supervision and inspection are:

(1) Listening to reports on the actual implementation of these Provisions;

(2) Carrying out inspections of the work of implementing the administrative procedures;

(3) Registering and filing for the record the major administrative actions;

(4) Organizing administrative enforcement examinations and evaluations;

(5) Reviewing and examining administrative enforcement records;

(6) Accepting complaints and reports from the general public;

(7) Investigating any administrative procedure actions in violation of the law that have been the subject of complaints or reports by the general public or exposed by the mass media;

(8) Investigating and addressing administrative procedure actions that are in violation of the law;and

(9) Other methods of supervision and inspection.

Article 156. If they believe that an administrative action of an administrative organ violates legal procedure, citizens, legal persons

级人民政府法制部门、监察部门和上级行政机关投诉、举报，要求调查和处理。

政府法制部门、监察部门和上级行政机关应当公布受理投诉、举报的承办机构和联系方式。

接受投诉、举报的行政机关对受理的投诉、举报应当进行调查，依照职权在 60 日内作出处理决定，并将处理结果告知投诉人、举报人。

第一百五十七条县级以上人民政府法制部门应当建立行政机关依法行政档案，对本级人民政府各工作部门和下一级人民政府的行政程序违法行为应当予以登记，并将违法记录以适当方式向社会公布。

第一百五十八条行政机关行政程序违法的，行政机关应当依职权或者依申请自行纠正。

县级以上人民政府法制部门对公众投诉举报、新闻媒体曝光和监督检查中发现的行政机关行政程序违法行为，应当向有关机关发出《行政执法监督通知书》，建议自行纠正，有关机关应当在

or other organizations may make complaints or reports to the legislative affairs department or the department of supervision of the people's government at the same level or to the administrative organ at the next higher level to request that it investigate and handle the matter. The legislative affairs department or the department of supervision of the people's government or the administrative organ at the next higher level should make public the organs that will accept and handle complaints and reports, and the means of contacting them. Administrative organs that accept complaints and reports should conduct investigations of the complaints and reports they have accepted and make decisions about them within the scope of their authority within 60 days, and inform the persons who have made the complaints or reports about the results of how the matters have been handled.

Article 157. The legislative affairs departments of people's governments at the county level and above should establish archives of administrative actions that have been taken in accordance with the law by administrative organs, administrative procedure actions that are in violation of the law taken by the functional departments of people's governments at the same level and people's governments at the next lower level should be registered and recorded, and the records of the unlawful actions should be made public to society through appropriate means.

Article 158. When administrative procedures conducted by administrative organs violate the law, the administrative organs should correct them within the scope of their authority or in response to requests.

Upon discovering, as a result of complaints or reports by the general public, exposure by the news media, or supervision and inspection, that an administrative procedure action by an administrative organ violates the law, the legislative affairs department of the people's

30 日内将处理结果向政府法制部门报告。

government at the county level or above should issue to the administrative organ concerned a Notice of Administrative Enforcement Supervision suggesting that the administrative organ concerned correct the unlawful action by itself. The administrative organ concerned should report the outcome within 30 days to the legislative affairs department of the government.

第一百五十九条行政机关不自行纠正行政执法违法行为的，由有监督权的机关根据违法行为的性质、程度等情况，依照职权分别作出如下处理：

Article 159. When administrative organs fail to correct administrative enforcement actions that violate the law, the organs that have supervisory authority shall respectively make the following decisions according to their authority in light of the nature and seriousness of the actions that are in violation of the law:

- (一) 责令履行；
- (二) 确认无效；
- (三) 撤销；
- (四) 责令补正或者更正；
- (五) 确认违法。

- (1) Ordering the administrative organs concerned to perform their duties;
- (2) Confirming the actions are invalid
- (3) Revoking the actions;
- (4) Ordering the actions to be amended or corrected; or
- (5) Confirming that the actions are in violation of the law.

第一百六十条行政机关具有下列情形之一的，应当责令履行：

Article 160. Under any one of the following circumstances, the administrative organs concerned should be ordered to perform their duties:

- (一) 不履行法定职责的；
- (二) 拖延履行法定职责的。

- (1) When they have failed to perform their legal duties and responsibilities; or
- (2) When they have procrastinated in performing their legal duties and responsibilities.

第一百六十一条具有下列情形之一的，行政执法行为无效：

Article 161. Administrative enforcement actions shall be invalid under any one of the following circumstances:

- (一) 不具有法定行政执法主

- (1) The administrative enforcement action is conducted by someone who does not have the

体资格的；

(二) 没有法定依据的；

(三) 法律、法规、规章规定的
的其他无效情形。

行政执法行为的内容被部分确
认无效的，其他部分仍然有效，
但是除去无效部分后行政行为不
能成立的，应当全部无效。

无效的行政执法行为，自始不
发生法律效力。

第一百六十二条具有下列情形之
一的，行政执法行为应当撤销：

(一) 主要证据不足的；

(二) 适用依据错误的；

(三) 违反法定程序的，但是
可以补正的除外；

(四) 超越法定职权的；

(五) 滥用职权的；

(六) 法律、法规、规章规定
的其他应当撤销的情形。

行政执法行为的内容被部分撤
销的，其他部分仍然有效，但是
除去撤销部分后行政行为不能成
立的，应当全部撤销。

行政执法行为被撤销后，其撤
销效力追溯至行政执法行为作出
之日；法律、法规和规章另有规

legal qualifications to be an agent of
administrative enforcement;

(2) The administrative action is conducted
without legal basis; or

(3) Other circumstances under which the law,
regulations, and rules have stipulated that an
action is invalid.

When the content of an administrative
enforcement action is determined to be partially
invalid, the other parts of it shall remain valid.
However, if the invalid part deprives the
administrative action of its basis, the whole
administrative action should be invalid.

An invalid administrative enforcement action
shall have no legal effect from the beginning.

Article 162. Administrative enforcement
actions should be revoked under any one of the
following circumstances:

(1) When the main evidence is not sufficient;

(2) When the applicable basis is incorrect;

(3) When the legal procedure is violated, unless
a remedy is possible;

(4) When the administrative action exceeds
one's legal authority;

(5) When the administrative action is taken by
abusing one's administrative power; or

(6) Other circumstances in which laws,
regulations or rules stipulate that it should be
revoked.

If an administrative enforcement action is
partially revoked, the other parts of it shall
remain valid. However, if the revoked portion
deprives the administrative action of its basis,
the whole administrative action should be
revoked.

When an administrative action is revoked, the
effect of the revocation shall be retroactive to
the day the administrative enforcement action

定的，其撤销效力可以自撤销之日发生。

行政执法行为被撤销的，如果发现新的证据，行政机关可以依法重新作出行政执法行为。

第一百六十三条行政执法行为的撤销，不适用以下情形：

（一）撤销可能对公共利益造成重大损害的；

（二）法律、法规、规章规定的其他不予撤销的情形。

行政执法行为不予撤销的，行政机关应当自行采取补救措施或者由有权机关责令采取补救措施。

第一百六十四条具有下列情形之一的，行政执法行为应当予以补正或者更正：

（一）未说明理由且事后补充说明理由，当事人、利害关系人没有异议的；

（二）文字表述错误或者计算错误的；

（三）未载明决定作出日期的；

（四）程序上存在其他轻微瑕疵或者遗漏，未侵犯公民、法人或者其他组织合法权益的。

补正应当以书面决定的方式作出。

was taken. If laws, regulations or rules provide otherwise, revocation may be effective from the date of revocation.

If, after an administrative action is revoked, if new evidence is discovered, the administrative organ may, in accordance with the law, retake the administrative enforcement action.

Article 163. Administrative enforcement actions shall not be revoked in any of the following circumstances:

(1) The revocation of the administrative enforcement actions might seriously damage the public interest; or

(2) Other circumstances under which revocation is not allowed by laws, regulations or rules.

When an administrative enforcement action may not be revoked, the administrative organ concerned should voluntarily take remedial measures, or the competent organs should order the administrative organ to take remedial measures.

Article 164. Administrative enforcement actions should be amended or corrected under any of the following circumstances:

(1) No reasons were stated for an administrative enforcement action but subsequently reasons were set forth, and the parties and interested parties have no objections;

(2) An administrative enforcement action contains errors in the language or calculations used;

(3) An administrative enforcement action does not indicate the date of the decision; or

(4) An administrative enforcement action has slight procedural defects or omissions that do not infringe the lawful rights of citizens, legal persons or other organizations;

The amendments or corrections should be made by means of written decisions.

第一百六十五条行政执法行为具有下列情形之一的，应当确认违法：

（一）行政机关不履行职责，责令其履行法定职责已无实际意义的；

（二）行政执法行为违法，不具有可撤销内容的；

（三）行政执法行为违法，依法不予撤销的；

（四）其他应当确认违法的情形

第一百六十六条行政机关的具体行政行为违反法定程序，侵犯公民、法人或者其他组织合法权益的，公民、法人或者其他组织可以依法申请行政复议或者依法提起行政诉讼。

第九章 责任追究

第一百六十七条实行行政问责制度，对行政机关及其工作人员的行政违法行为进行责任追究。

行政问责应当坚持实事求是、错责相当、教育与惩戒相结合的原则。

Article 165. Administrative enforcement actions should be determined to violate the law under any one of the following circumstances:

(1) When the administrative organ has failed to perform its functions and responsibilities and ordering it to perform its legal functions and responsibilities is no longer of any practical meaning;

(2) When the administrative enforcement action violates the law but the content of the action cannot be revoked;

(3) When the administrative enforcement action violates the law but the law does not allow it to be revoked; or

(4) Other circumstances under which an administrative enforcement action should be determined to violate the law.

Article 166. When a specific administrative action by an administrative organ violates legal procedures and infringes the lawful rights and interests of citizens, legal persons or other organizations, the citizens, legal persons or other organizations may, in accordance with the law, apply for administrative reconsideration or file an administrative lawsuit in accordance with the law.

Chapter IX. Affixing Responsibilities

Article 167. An administrative accountability system shall be practiced. The responsibility of administrative organs and their staff members for administrative actions that violate the law shall be investigated and affixed.

The administrative accountability system should adhere to the principles of seeking truth from the facts, making liability commensurate with mistakes, and combining education with punishment.

第一百六十八条行政机关在实施行政决策、行政执法和其他行政行为过程中，因工作人员故意或者重大过失，导致行政行为违法且产生危害后果，有下列情形之一的，对行政机关及其工作人员应当追究责任：

（一）不履行或者拖延履行法定职责的；

（二）超越或者滥用职权的；

（三）不具有法定行政主体资格实施行政行为的；

（四）重大行政决策未经调查研究、专家论证、公众参与、合法性审查、集体研究的；

（五）违反程序制定和发布规范性文件文件的；

（六）行政执法行为违法，被确认无效、撤销、确认违法的；

（七）违法制定裁量权基准或者不遵守裁量权基准的；

（八）订立行政合同违反法定程序的；

（九）采取或者变相采取强制措施以及其他方式迫使当事人接受行政指导的；

（十）违反法定程序实施行政裁决的；

（十一）迟报、谎报、瞒报、漏报有关突发事件的信息，或者通报、报送、公布虚假信息的；

（十二）不依法举行听证会，或者采取欺骗、贿赂、胁迫等不正当手段，操纵听证会结果的；

（十三）因违法实施行政行为导致行政赔偿的；

（十四）其他行政违法行为。

Article 168. If, in the process of implementing administrative decision-making, administrative enforcement and other administrative actions by administrative organs, as the result of intentional misconduct or gross negligence on the part of the staff members an administrative action results in a violation of the law and causes harm, the responsibilities of the administrative organ concerned and its staff members should be investigated and affixed under any one of the following circumstances:

(1) When they have failed to perform or procrastinated in performing their legal duties and responsibilities

(2) When they have exceeded or abused their authority;

(3) When they have implemented administrative actions without having the legal qualifications to be an agent of administrative actions;

(4) When a major administrative decision-making has been conducted without investigation or research, expert argumentation, public participation, lawfulness examination, or collective discussion;

(5) When normative documents are formulated and issued in violation of procedures;

(6) When the administrative enforcement actions are illegal and have been determined to be invalid and revoked or have been determined to be illegal;

(7) When the standard for discretionary power has been formulated illegally or the standards for discretionary power has not been complied with;

(8) When the administrative contracts have been concluded in violation of the legal

procedures;

(9) When open or covert coercive measures or other measures have been adopted to force the parties to accept administrative guidance;

(10) When administrative adjudication has been implemented in violation of the legal procedures;

(11) When there have been delays in reporting or false reports, facts have been hidden or omitted from information reported about emergency incidents, or false information has been provided, passed on or published;

(12) When hearings have not been held as required by law, or the results of the hearings have been manipulated by improper means such as fraud, bribery, coercion, etc.;

(13) When illegal implementation of administrative actions has resulted in administrative compensation; or

(14) Other administrative actions in violation of the law.

第一百六十九条责任追究形式包括行政处理和行政处分。

对行政机关的行政处理分为：责令限期整改、公开道歉、通报批评、取消评比先进的资格等。

对行政机关工作人员的行政处理分为：告诫、道歉、通报批评、离岗培训、调离执法岗位、取消执法资格等。

行政处分分为警告、记过、记

Article 169. Forms of investigating and affixing responsibilities include administrative handling and administrative sanctions.

Administrative handling of an administrative organ includes: an order to make corrections within a time limit, making a public apology, circulating a notice of criticism and depriving it of eligibility to compete for honors in emulation movements, etc.

Administrative handling of staff members of an administrative organ includes: giving an admonition, making an apology, circulating a notice of criticism, suspension from office to undergo training, removal from positions of administrative enforcement, disqualification from taking part in administrative enforcement actions, etc.

Administrative sanctions include a warning,

大过、降级、撤职、开除。

行政处分和行政处理可以视情况合并适用。

第一百七十条责任承担主体包括行政机关及其工作人员。

行政机关工作人员包括直接责任人员和直接主管人员。直接责任人员是指行政行为的具体承办人；直接主管人员是指行政行为的审核人和批准人。

前款所称审核人，包括行政机关内设机构负责人、行政机关分管负责人，以及按规定行使审核职权的其他审核人；批准人，包括签发行政决定的行政机关负责人，以及按规定或者经授权行使批准职权的其他批准人。

第一百七十一条责任追究机关按照下列权限进行责任追究：

（一）对行政机关给予行政处理的，由本级人民政府或者其上级行政机关决定；

（二）对行政机关工作人员给予告诫、道歉、通报批评、离岗培训、调离岗位处理的，由本行政机关决定或者由任免机关决定；

（三）取消行政机关工作人员执法资格的，由发证机关决定；

（四）对行政机关工作人员依法依规应当采取组织处理措施的，按照管理权限和规定程序办

record of demerit, record of a major demerit, demotion, removal from office, discharge, etc. Administrative handling and administrative sanctions may be applied in combination in light of the actual situation.

Article 170. Those bearing responsibility include the administrative organs and their staff members.

Staff members of the administrative organs include the persons directly responsible and the persons directly in charge. The persons directly responsible mean the specific persons who undertake administrative actions. The persons directly in charge means the persons who examine and approve administrative actions. The persons who examine administrative actions referred to in the previous paragraph include responsible persons in the internal units of the administrative organs, responsible persons in the administrative organs who are in charge of the matters in question, and other persons who exercise the power of examination; The persons who approve administrative actions include responsible persons who sign administrative decisions and other persons who exercise the power of approval in accordance with provisions or authorization.

Article 171. The responsibility-affixing organs shall affix responsibilities in accordance with the following scope of authority:

(1) The decision to deal with an administrative organ by means of administrative handling shall be made by the people's government at the same level or the administrative organ at a higher-level;

(2) The decision as to whether a staff member of an administrative organ should be dealt with by such means of administrative handling as being given an admonition, making an apology, circulating a notice of criticism, being suspended from office to undergo training, being removed from their current position, etc. shall be made by the administrative organ or by

理；

(五) 对行政机关工作人员给予行政处分的，由任免机关或者监察机关决定，按照管理权限和规定程序办理。

第一百七十二条行政机关违反法定程序实施行政行为，侵犯公民、法人或者其他组织合法权益造成损害的，依法承担行政赔偿责任。

行政机关履行赔偿义务后，应当责令有故意或者重大过失的行政机关工作人员、受委托的组织或者个人，承担部分或者全部赔偿费用。

第一百七十三条行政机关工作人员违反法定程序，滥用职权、玩忽职守、徇私舞弊，严重侵害公民、法人或者其他组织的合法权益，涉嫌犯罪的，依法移送司法机关追究刑事责任。

the organ in charge of appointing and dismissing staff members;

(3) The decision to disqualify a staff member of an administrative organ from taking part in law enforcement actions shall be made by the organ that issues the certification;

(4) When a staff member of an administrative organ is dealt with by means of administrative handling in accordance with the law and discipline, it should be done within the limits of management authority and according to the stipulated procedures; and

(5) The decision as to whether a staff member of an administrative organ should be given administrative sanctions shall be made by the organ in charge of appointing and dismissing staff members or the supervision organ, and shall be done in accordance with the management authority and stipulated procedures.

Article 172. When actual damages to the lawful rights and interests of citizens, legal persons or other organizations are caused by an administrative action carried out by an administrative organ in violation of the procedures stipulated by law, the administrative organ shall bear the responsibility for making administrative compensation in accordance with the law.

After fulfilling its obligation to make compensation, the administrative organ should order staff members and entrusted organizations or individuals who intentionally or with gross negligence made mistakes, to bear partial or full responsibility for compensation costs.

Article 173. When staff members of an administrative organ who have violated the procedures stipulated by law by abusing their authority, neglecting their administrative duty, bending the law for their own interests or that of their relatives or friends or committing fraud

have seriously harmed the lawful rights and interests of citizens, legal persons or other organizations and are suspected of having committed a crime, they shall be transferred to a judicial organ in accordance with the law to investigate and address their criminal responsibility.

第十章 附则

第一百七十四条期间包括法定期间和行政机关规定的期间。

期间以时、日、月、年计算。期间开始的时和日，不计算在期间内。

第一百七十五条当事人因不可抗力或者其他正当理由耽误期限的，在障碍消除后的 10 日内，可以申请顺延期限，是否准许，由行政机关决定。

第一百七十六条行政机关应当按照下列顺序选择送达方式送达行政文书：

- (一)直接送达；
- (二)留置送达；
- (三)委托送达与邮寄送达；
- (四)公告送达。

送达的具体操作程序参照《中华人民共和国民事诉讼法》有关规定执行。

第一百七十七条本规定公布前省人民政府发布的规章与本规定不

Chapter X. Supplementary Provisions

Article 174. Time limits include those stipulated by law and those designated by an administrative organ.

Time limits are calculated in hours, days, months and years. The hour and day on which the time limit starts are not counted when calculating a time limit.

Article 175. When a party has missed a time limit because of *force majeure* or other justifiable reason, that party may apply for an extension of the deadline within 10 days of the elimination of the impediment. Whether the application shall be granted is up to the administrative organ to decide

Article 176. Administrative organs should select the method for delivering administrative documents in the following order:

- (1) By direct delivery;
 - (2) By custodial delivery;
 - (3) By entrusted delivery and postal delivery; and
 - (4) By delivery through public announcement
- The concrete operating procedures for delivery shall be implemented with reference to the relevant provisions of the Civil Procedural Law of the People's Republic of China.

Article 177. When rules issued by the Provincial People's Government prior to the

一致的，适用本规定。

promulgation of these Provisions are inconsistent with these Provisions, these Provisions shall apply.

各级人民政府及其工作部门可以根据本规定对行政程序作具体或者补充规定。

People's governments at all levels and their functional departments may make concrete or supplementary provisions to the administrative procedures in accordance with these Provisions.

第一百七十八条本规定自 2008 年 10 月 1 日起施行。

Article 178. These Provisions shall come into force as of October 1, 2008.

(以湖南省人民政府公报公布的《湖南省行政程序规定》中文文本为准，英文文本仅供参考。)

The Chinese text of Hunan Provincial Administrative Procedure Provisions published in the Gazette of Hunan Provincial Government shall be the normative document, and the English text is only reference.)

来源：责任编辑：郭谦