# Implementation Regulations for the Administrative Reconsideration Law of the PRC

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Adopted at the 177th Executive Meeting of the State Council on May 23, 2007
Promulgated by Decree No. 499 of the State Council of the PRC on May 29, 2007
Effective: August 1, 2007

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## Chapter I — General Provisions

Article 1 — These Regulations are formulated for the purpose of further developing the role of the administrative reconsideration system in resolving administrative disputes, protecting the lawful rights and interests of citizens, legal persons, and other organizations, and supervising and safeguarding the exercise of administrative powers by administrative organs in accordance with the law.

Article 2 — Administrative reconsideration authorities at all levels shall earnestly perform their administrative reconsideration duties, adhere to the principle of serving the people, and conduct administrative reconsideration in a lawful, fair, open, timely, and convenient manner.

Article 3 — Administrative reconsideration institutions shall perform the following duties:

1. Accept applications for administrative reconsideration;



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2. Investigate and collect evidence from the relevant organizations and personnel, and consult relevant documents and materials;

3. Examine whether the specific administrative act under application for administrative reconsideration is lawful and appropriate, and draft administrative reconsideration decisions;

4. Handle or forward applications for review of the relevant provisions specified in Article 7 of the Administrative Reconsideration Law;

5. Submit proposals for handling cases where administrative organs violate the provisions of the Administrative Reconsideration Law in accordance with the prescribed authority and procedures;

6. Handle matters related to responding to administrative lawsuits filed against administrative reconsideration decisions;

7. Other duties prescribed by laws and regulations.

## Chapter II — Scope of Administrative Reconsideration

Article 4 — Where a citizen, legal person, or other organization considers that a specific administrative act of an administrative organ infringes upon his or her lawful rights and interests, he or she may apply for administrative reconsideration to the administrative reconsideration authority in accordance with the law.

Article 5 — An application for administrative reconsideration may be filed in any of the following circumstances:

1. Being dissatisfied with an administrative penalty decision such as a warning, fine, confiscation of illegal gains or illegal property, order to suspend production or business operations, temporary suspension or revocation of a permit or license, or administrative detention;

2. Being dissatisfied with an administrative compulsory measure such as restriction of personal freedom, sealing up, distraining, or freezing of property;

3. Being dissatisfied with a decision to alter, suspend, or revoke a permit, license, qualification certificate, or other certificate;

4. Being dissatisfied with a decision on the confirmation of ownership or the right to use natural resources such as land, mineral deposits, water, forests, mountains, grasslands, wasteland, tidal flats, or sea areas;

5. Considering that an administrative organ has infringed upon lawful operational autonomy;

6. Considering that an administrative organ has altered or abolished an agricultural contract;

7. Considering that an administrative organ has illegally raised funds, collected property, apportioned expenses, or illegally required the performance of other obligations;

8. Considering that an administrative organ, despite meeting the statutory conditions, has failed to issue a permit, license, qualification certificate, or other certificate in accordance with the law, or has failed to examine and approve or register a matter;

9. Considering that an administrative organ has failed to perform its statutory duty to protect personal rights, property rights, or the right to education;

10. Considering that an administrative organ has failed to issue social security benefits such as pensions, minimum subsistence allowances, or social insurance benefits in accordance with the law;

11. Other circumstances where the applicant considers that a specific administrative act of an administrative organ infringes upon his or her lawful rights and interests.

## Chapter III — Application for Administrative Reconsideration



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Article 6 — An application for administrative reconsideration may be filed in writing or orally. Where an application is filed orally, the administrative reconsideration authority shall record the basic information of the applicant, the claim for administrative reconsideration, the main facts relied upon for the application, the grounds, and the time of the application.

Article 7 — A written application for administrative reconsideration shall specify the following particulars:

1. The name, gender, age, occupation, and address of the applicant (or the name and address of a legal person or other organization, and the name and position of its legal representative or principal responsible person);

2. The name and address of the respondent administrative organ;

3. The claim for administrative reconsideration and the main facts and grounds relied upon;

4. The signature or seal of the applicant and the date of the application.

Article 8 — An application for administrative reconsideration shall be filed within 60 days from the date on which the applicant knew or should have known of the specific administrative act, unless otherwise provided by law.

Article 9 — Where an applicant files an application for administrative reconsideration with the people's court and the people's court has not yet accepted the application, and then files an application for administrative reconsideration with the administrative reconsideration authority, the administrative reconsideration authority shall accept the application. Where the people's court has already accepted the application, the administrative reconsideration authority shall not accept the application for administrative reconsideration.

Article 10 — Where an applicant or a third party may entrust an agent to participate in the administrative reconsideration. The agent shall submit a power of attorney to the administrative reconsideration authority.

## Chapter IV — Acceptance of Administrative Reconsideration

Article 11 — The administrative reconsideration authority shall, within five days from the date of receiving the application for administrative reconsideration, conduct an examination and, where the application does not meet the requirements, decide not to accept the application and notify the applicant in writing. Where the application meets the requirements but does not fall within the acceptance scope of the authority, the authority shall inform the applicant of the competent authority.

Article 12 — The administrative reconsideration authority shall serve a copy of the application for administrative reconsideration or a copy of the record of the oral application on the respondent within seven days from the date of accepting the application. The respondent shall, within 10 days from the date of receiving the copy, submit a written reply, and the evidence and basis for the specific administrative act.

Article 13 — During the administrative reconsideration period, the specific administrative act shall not be suspended, except in the following circumstances:

1. The respondent considers that suspension is necessary;

2. The administrative reconsideration authority considers that suspension is necessary;

3. The applicant applies for suspension and the administrative reconsideration authority considers that the application is reasonable and decides to suspend the act;

4. Suspension is required by law.

Article 14 — During the administrative reconsideration period, the respondent shall not collect evidence from the applicant or other relevant organizations or individuals on its own initiative, except where the specific administrative act involves the public interest, national security, or other circumstances prescribed by law.



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## Chapter V — Decision on Administrative Reconsideration

Article 15 — The administrative reconsideration authority shall, within 60 days from the date of accepting the application, make an administrative reconsideration decision, unless the law provides for a shorter time limit. Where the case is complex and the decision cannot be made within the prescribed time limit, the time limit may be extended by 30 days with the approval of the responsible person of the administrative reconsideration authority, and the applicant and the respondent shall be notified.

Article 16 — The administrative reconsideration authority shall hear the case through a collegial panel composed of two or more administrative reconsideration personnel. Where necessary, hearings may be conducted.

Article 17 — After hearing the case, the administrative reconsideration authority shall make an administrative reconsideration decision in accordance with the law:

1. Where the specific administrative act is based on clear facts, correct legal basis, and proper procedures, the specific administrative act shall be upheld;

2. Where the respondent fails to perform its statutory duties, the respondent shall be ordered to perform the duties within a specified period;

3. Where the specific administrative act falls under any of the following circumstances, the act shall be revoked, modified, or confirmed illegal, and the respondent may be ordered to re-perform the act within a specified period: unclear main facts, insufficient evidence, incorrect legal basis, violation of statutory procedures, exceeding authority, abuse of authority, or manifestly inappropriate specific administrative act;

4. Where the respondent fails to submit a written reply and the evidence and basis for the specific administrative act within the prescribed time limit, the specific administrative act shall be deemed to lack evidence and basis and shall be revoked.

Article 18 — Where the administrative reconsideration authority orders the respondent to re-perform a specific administrative act, the respondent shall not re-perform an act identical or substantially identical to the original specific administrative act on the basis of the same facts and grounds, except where the administrative reconsideration authority revokes the original act on procedural grounds.

Article 19 — Where an applicant files a lawsuit with the people's court against an administrative reconsideration decision, the lawsuit shall be filed within 15 days from the date of receiving the administrative reconsideration decision, unless otherwise provided by law.

Article 20 — Where an applicant neither files a lawsuit nor performs the administrative reconsideration decision, the administrative reconsideration authority or the relevant superior administrative organ shall order the applicant to perform the decision, or apply to the people's court for compulsory enforcement.

## Chapter VI — Supplementary Provisions

Article 21 — Administrative reconsideration authorities shall strengthen the guidance and supervision of administrative reconsideration work. The administrative reconsideration institution of the State Council shall guide and supervise the administrative reconsideration work nationwide.

Article 22 — Where administrative organs refuse to accept applications for administrative reconsideration that should be accepted, fail to make administrative reconsideration decisions within the prescribed time limit, engage in malpractice for personal gain, or commit other dereliction of duty, the directly responsible persons in charge and other directly responsible personnel shall be subject to administrative sanctions in accordance with the law. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.



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Article 23 — Where the respondent fails to submit a written reply and the evidence and basis for the specific administrative act within the prescribed time limit, the directly responsible persons in charge and other directly responsible personnel shall be subject to administrative sanctions in accordance with the law.

Article 24 — The specific matters relating to the application of these Regulations shall be interpreted by the legislative affairs institution of the State Council.

Article 25 — These Regulations shall take effect as of August 1, 2007.

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