

Order of the State Council

(No. 588)

The Decision of the State Council on Abolishing and Amending Some Administrative Regulations, as adopted at the 138th executive meeting of the State Council on December 29, 2010, is hereby issued and shall come into force on the date of issuance.

Premier: Wen Jiabao

January 8, 2011

Decision of the State Council on Abolishing and Amending Some Administrative Regulations

To profoundly carry out the basic guideline of governing the country by law, maintain the unification of the socialist legal system, and comprehensively promote “administration by law”, on the basis of four comprehensive reviews of administrative regulations since 1983, the State Council comprehensively reviewed again the existing 691 administrative regulations issued as of the end of 2009 according to the new situations and new requirements of the economic and social developments and the deepening of reform. Upon review, the State Council decides that:

- I. Seven administrative regulations shall be abolished. (Annex 1)

- II. Some articles of 107 administrative regulations shall be amended. (Annex 2)

This Decision shall come into force on the date of issuance.

Annexes:

1. Administrative Regulations Abolished by Decision of the State Council

2. Administrative Regulations Amended by Decision of the State Council

Annex 1:

Administrative Regulations Abolished by Decision of the State Council

1. Decision on the Payment of Wages for Legal Holidays by Factories and Mines in All Localities(issued by the Government Administration Council on July 31, 1950)

2. Provisions on Protecting Airport Clearance (issued by the State Council and the Central Military Commission on December 11, 1982)

3. Provisions on the Administration of Spot and Forward Foreign Exchange Transactions Handled by Financial Institutions on Behalf of Clients (approved by the State Council on December 13, 1987, and issued by the State Administration of Foreign Exchange on March 5, 1988)

4. Measures for the Foreign Exchange Administration of Overseas Investments (approved by the State Council on February 5, 1989 and issued by the State Administration of Foreign Exchange on March 6, 1989)

5. Measures for the Administration of Overseas Financial Institutions (approved by the State Council on March 12, 1990, and issued on April 13, 1990 by Order No.1 of the People's Bank of China)

6. Regulation of the People's Republic of China on the Settlement of Labor Disputes in Enterprises(issued on July 6, 1993 by Order No.117 of the State Council of the People's Republic of China)

7. Regulation on the Protection of Oil and Natural Gas Pipelines (Issued on August 2, 2001 by Order No. 313 of the State Council of the People's Republic of China)

Annex 2:

Administrative Regulations Amended by Decision of the State Council

I. The provisions obviously not meeting the requirements of the development of the socialist market economy and society of the following administrative regulations shall be amended.

1. The “long-term economic plan of the state” in Article 5 of the Regulation of the People's Republic of China on the Exploitation of Offshore Petroleum Resources in Cooperation with Foreign Enterprises shall be changed into “provisions of the state.”

2. The “product tax” in Articles 2, 3 and 5 of the Interim Regulation of the People's Republic of China on Urban Maintenance and Construction Tax shall be changed into “consumption tax.”
3. The “product tax” in Articles 2 and 6 of the Interim Provisions on the Collection of Educational Surcharges shall be changed into “consumption tax.”
4. Item 2 of Article 34 of the Working Regulation on the Factory Directors of Industrial Enterprises Owned by the Whole People shall be deleted.
5. Paragraph 2 of Article 3 of the Detailed Rules for the Implementation of Railway Freight Transport Contracts shall be deleted.
6. Article 3 of the Detailed Rules for the Implementation of Waterway Freight Transport Contracts shall be deleted.
7. Paragraph 1 of Article 19 of the Interim Regulation on the Contracted Management Responsibility System of Industrial Enterprises Owned by the Whole People shall be changed into: “Where the State Council makes any major adjustment to the tax category or tax rate, both parties may modify the management contract according to the provisions of the State Council.”
8. Item 1 of Article 36 of the Regulation of the People's Republic of China on Rural Collectively-owned Enterprises shall be deleted.
9. Paragraph 1 of Article 10 of the Measures for the Administration of Foreign Investors' Participation in the Salvage of Sunken Vessels and Objects in Coastal Waters of China shall be changed into: “A joint salvage contract signed by a foreign investor with a Chinese salvage operator shall comply with the relevant provisions of the Contract Law of the People's Republic of China.”
10. Paragraphs 4, 5 and 6 of Article 8, paragraphs 2 and 3 of Article 10, paragraphs 2, 3 and 4 of Article 11 and paragraph 6 of Article 13 of the Regulation on Transforming the Operating Mechanism of Industrial Enterprises Owned by the Whole People shall be deleted.

Article 28 shall be changed into: “For the policy-related losses incurred by an enterprise due to pricing in realizing the social welfare objectives specified by the government, the price department shall adjust or lift the limitation on the price of products according to law

to solve the problem. If the price department cannot do so, with the approval of the public finance department, subsidies or compensations in other forms shall be granted to the enterprise accordingly. If the enterprise still suffers any loss after the aforesaid measures are taken, the loss shall be handled as operating loss.”

Item 1 of Article 47 and item 1 of Article 48 of it shall be deleted.

11. Article 27 of the Interim Regulation on the Supervision and Administration of State-owned Assets of Enterprises shall be deleted.

II. The provisions on “requisition” in the following administrative regulations shall be amended.

(I) The “Requisition” in the following administrative regulations shall be changed into “expropriation or requisition.”

12. Article 16 of the Regulation on the Implementation of the Forest Law of the People's Republic of China.

(II) The “Requisition” in the following administrative regulations shall be changed into “expropriation.”

13. Article 18 of the Regulation on the Protection of Power Facilities.

14. Article 9 of the Interim Regulation of the People's Republic of China on Urban Land Use Tax.

15. Article 8 of the Interim Regulation of the People's Republic of China on Land Value-added Tax.

16. Article 42 of the Regulation on the Administration of the Development and Operation of Urban Real Estate.

17. Article 15 of the Regulation on the Protection of Basic Farmland.

18. Article 2, paragraph 1 of Article 20, Article 23, Article 25, paragraph 2 of Article 26 and Article 45 of the Regulation on the Implementation of the Land Administration Law of the People's Republic of China.

19. Paragraph 2 of Article 11 and Article 12 of the Regulation on the Migrants for the

Construction of the Three Gorges Project of Yangtse River.

III. The phrase “speculation and profiteering” in the following administrative regulations shall be deleted and the relevant provisions shall be amended.

20. Article 1 of the Regulation of the People's Republic of China on the Administration of Gold and Silver shall be changed into: “This Regulation is formulated to strengthen the administration of gold and silver and ensure the state's demand for gold and silver in economic development.”

Item 2 of Article 30 shall be changed into: “2. those having made outstanding contributions to fighting against the relevant illegal and criminal activities to protect the state's gold and silver.”

21. Paragraph 2 of Article 11 of the Regulation on Treasury Bills of the People's Republic of China shall be deleted.

VI. The provisions on criminal liability of the following administrative regulations shall be amended.

(I) The provisions of the following administrative regulations citing the decisions on punishing crimes which have been incorporated in the Criminal Law and abolished shall be changed into “according to the relevant provisions of the Criminal Law.”

22. Article 33 of the Regulation of the People's Republic of China on the Protection of Terrestrial Wild Animals.

23. Article 26 of the Regulation of the People's Republic of China on the Protection of Aquatic Wild Animals.

(II) The specific provisions of the following administrative regulations on criminal liability shall be amended.

24. The phrase “be subject to criminal liability according to the relevant provisions of the Supplementary Provisions of the Standing Committee of the National People's Congress on the Severe Punishment of Crimes of Organizing or Transporting Other Persons to Illegally Cross the National Border (Frontier)” in Article 23 of the Detailed Rules for the Implementation of the Law of the People's Republic of China on the Administration of Exit and Entry of Citizens shall be changed into “be subject to criminal

liability according to law.”

The phrase “be subject to criminal liability according to the relevant provisions of the Criminal Law of the People's Republic of China and the Supplementary Provisions of the Standing Committee of the National People's Congress on the Severe Punishment of Crimes of Organizing or Transporting Other Person(s) to Illegally Cross the National Border (Frontier)” in Articles 24, 25 and 26 shall be changed into “be subject to criminal liability according to law.”

25. The phrase “be punished by reference to the relevant provisions of the Military Service Law of the People's Republic of China and the Interim Regulation of the People's Republic of China on the Criminal Punishment of Servicemen for Violation of Duties” in paragraph 2 of Article 43 of the Working Regulation on the People's Militia shall be changed into “punished by reference to the relevant provisions of the Military Service Law of the People's Republic of China; and if any crime is constituted, be subject to criminal liability according to law.”

V. The provisions of the following administrative regulations on public security administration punishment shall be amended.

(1) The “Regulation on Public Security Administration Punishments” quoted in the following administrative regulations shall be changed into “Public Security Administration Punishments Law .”

26. Article 30 of the Regulation on the Protection of Power Facilities.

27. Article 17 of the Measures for the Security Administration of the Hotel Industry.

28. Articles 45 and 46 of the Regulation of the People's Republic of China on the Administration of Watercourses.

29. Articles 17 and 18 of the Provisions on Water and Soil Conservation in the Development and Construction of Contiguous Areas of Shanxi, Shaanxi and Inner Mongolia.

30. Article 26 of the Regulation of the People's Republic of China on the Administration of Traffic Safety in Fishing Port Waters.

31. Article 17 of the Interim Measures for the Administration of Cable Television.

32. Article 18 of the Measures of the People's Republic of China for the Administration of Foreign-related Archeological Activities.
33. Article 29 and paragraph 2 of Article 32 of the Regulation on the Administration of Dam Safety of Reservoirs.
34. Article 43 and paragraph 2 of Article 46 of the Regulation of the People's Republic of China on Flood Control.
35. Article 63 of the Regulation of the People's Republic of China on Urban Collectively-owned Enterprises.
36. Paragraph 2 of Article 24 and Article 27 of the Regulation on the Implementation of the Law of the People's Republic of China on Assemblies, Processions and Demonstrations.
37. Article 27 and paragraph 2 of Article 32 of the Regulation on Urban Greening.
38. Article 38, Article 39 and paragraph 2 of Article 40 of the Regulation on the Administration of City Appearance and Environmental Sanitation.
39. Article 30 of the Regulation on the Administration of Power Grid Dispatch.
40. Article 31 of the Regulation on the Implementation of the Water and Soil Conservation Law of the People's Republic of China.
41. Article 38 of the Regulation on the Administration of Emergency Responses to Nuclear Accidents of Nuclear Power Plants.
42. Article 24 of the Regulation of the People's Republic of China on Protecting the Safety of Computer Information Systems.
43. Paragraph 2 of Article 50 of the Regulation on the Education of the Disabled.
44. Article 39 of the Regulation of the People's Republic of China on Natural Reserves.
45. Article 37 of the Regulation on the Emergency Responses to Destructive Earthquakes.
46. Article 51 of the Regulation on Traffic for National Defense.

47. Article 43 of the Regulation on the Administration of Militia Weaponry.
48. Article 40 of the Interim Regulation on the Prevention and Control of Water Pollution in Huaihe River Basin.
49. Article 24 of the Regulation of the People's Republic of China on Navigation Marks.
50. Article 25 of the Regulation of the People's Republic of China on the Administration of Chemicals Subject to Supervision and Control.
51. Article 43 of the Regulation on the Administration of Urban Roads.
52. Article 24 of the Measures for the Administration of National Key Construction Projects.
53. Article 25 of the Regulation of the People's Republic of China on the Protection of Survey Markers.
54. Article 20 of the Administrative Measures for the Security Protection of Computer Information Networks Linked to the Internet.
55. Article 20 of the Administrative Measures for Internet Information Services.
56. Paragraph 1 of Article 24 of the Provisions of the State Council on Prohibiting Regional Blockade in Market Economic Activities.
57. Article 90 of the Regulation of the People's Republic of China on the Administration of Traffic Safety on Inland Rivers.
58. Paragraph 2 of Article 29 of the Regulation on the Administration of Business Premises of Internet Access Service.
59. Article 18 of the Measures for Investigating, Punishing and Banning Unlicensed Business Operations.
60. Article 51 of the Regulation on Responses to Public Health Emergencies.
61. Article 50 of the Regulation on the Administration of Medical Wastes.
62. Article 57 of the Regulation on the Administration of Central Grain Reserves.

63. Article 49 of the Regulation on the National Defense Mobilization of Civil Transport Resources.

(II) The specific provisions of the following administrative regulations on public security administration punishments shall be amended.

64. The phrase “be handled according to the procedure in Article 39 of the Regulation of the People's Republic of China on Public Security Administration Punishments” in Article 18 of the Measures for the Security Administration of the Hotel Industry” shall be changed into “be handled according to Article 102 of the Public Security Administration Punishments Law of the People's Republic of China .”

65. Article 62 of the Regulation of the People's Republic of China on Urban Collectively-owned Enterprises shall be deleted.

66. The phrase “which does not constitute a crime, shall be punished by the public security organ according to the provisions of the Regulation of the People's Republic of China on Public Security Administration Punishments” in Article 41 of the Regulation of the People's Republic of China on the Protection of Terrestrial Wild Animals shall be changed into “which does not constitute a crime but is subject to a public security administration punishment, shall be punished by the public security organ according to the provisions of the Law of the People's Republic of China on Public Security Administration Punishments” .

67. The phrase “Whoever refuses or obstructs a people's policeman's lawful performance of his duties of maintaining the traffic order or social order shall be punished according to the provisions of the regulation on public security administration punishments” in paragraph 1 of Article 24 of the Regulation on the Implementation of the Law of the People's Republic of China on Assemblies, Processions and Demonstrations shall be changed into “Whoever refuses or obstructs a people's policeman's lawful performance of his duties of maintaining the traffic order or social order shall be punished according to the provisions of the law on public security administration punishments if it is subject to a public security administration punishment.”

Article 29 shall be changed into: “Whoever vandalizes any public or private property or causes any injury or death to any other person during an assembly, procession or demonstration shall assume the compensatory liability according to law.”

68. The phrase “in addition to the punishment in Article 30 of the Regulation of the

People's Republic of China on Public Security Administration Punishments” in paragraph 1 of Article 7 of the Measures for the Institutionalized Education of Persons Engaging in Prostitution and Whoring shall be changed into “in addition to the punishment in Article 66 of the Law of the People's Republic of China on Public Security Administration Punishments.”

69. The phrase “which does not constitute a crime, shall be punished by the public security organ according to the provisions of the Regulation of the People's Republic of China on Public Security Administration Punishments” in Article 32 of the Regulation of the People's Republic of China on the Protection of Aquatic Wild Animals shall be changed into “which does not constitute a crime but is subject to a public security administration punishment, shall be punished by the public security organ according to the provisions of the Law of the People's Republic of China on Public Security Administration Punishments..”

70. The phrase “whoever does so without violence or threat shall be punished by the public security organ according to the relevant provisions of the regulation on public security administration punishments” in Article 13 of the Interim Provisions on Prohibiting Profiteering shall be changed into “whoever does so without violence or threat shall be punished by the public security organ according to the relevant provisions of the law on public security administration punishments if it constitutes a violation of the public security administration.”

71. Article 34 of the Regulation of the People's Republic of China on Civil Aviation Security shall be changed into: “Whoever violates Article 14 of this Regulation or commits any conduct as mentioned in Article 16, paragraph 1 of Article 24 and Article 25 of this Regulation shall be punished by the civil aviation public security organ according to the relevant provisions of the Law of the People's Republic of China on Public Security Administration Punishments if it constitutes a violation of the public security administration; and whoever commits any conduct as mentioned in paragraph 2 of Article 24 of this Regulation shall be punished by the civil aviation public security organ according to the relevant provisions of the Law of the People's Republic of China on the Identity Cards of Residents.”

VI. The inconsistent names or provisions of laws and administrative regulations quoted in the following administrative regulations shall be amended.

(1) The names of laws and administrative regulations quoted in the following administrative regulations shall be amended.

72. The phrase “provisions of Article 27 of the Interim Customs Law” in item 5 of Article 11 of the Interim Measures of the Customs of the People's Republic of China for Vessel Tonnage Dues” shall be changed into “provisions of laws and administrative regulations.”

73. Article 1 of the Measures for the Supervision over Sanitation at Border Ports of the People's Republic of China shall be changed into: “These Measures are formulated to strengthen the sanitary supervision over border ports and vehicles for international navigation, improve the sanitary conditions of border ports and vehicles for international navigation, control and eliminate sources of contagion, cut off channels of diffusion, prevent contagious diseases from entering or leaving this country and protect the physical health of the people.”

74. The “Law of the People's Republic of China on the Income Tax of Foreign-funded Enterprises and Foreign Enterprises” in Article 76 of the Regulation on the Implementation of the Law of the People's Republic of China on Chinese-foreign Equity Joint Ventures” shall be changed into “Enterprise Income Tax Law of the People's Republic of China.”

The phrase “according to the Provisions of the Measures for the Liquidation of Foreign-funded Enterprises” in Article 91 shall be changed into “according to law.”

75. Article 1 of the Pilot Measures for Product Quality Supervision shall be changed into: “These Measures are formulated to strengthen product quality supervision, urge enterprises to implement technical standards of products, improve product quality and economic benefits, and satisfy the requirements of the socialist modernization drive and the people's livelihood.”

76. The “Interim Regulation of the People's Republic of China on Tax Collection” in Article 8 of the Interim Regulation of the People's Republic of China on Real Estate Tax” shall be changed into “Law of the People's Republic of China on the Administration of Tax Collection.”

77. The phrase “be handled according to the provisions of the Measures of the People's Republic of China for the Control of Firearms” in paragraph 4 of Article 5 of the “Provisions of the General Administration of Customs of the People's Republic of China on the Customs Control of Articles of Foreign Missions in China and Their Staff Members shall be changed into: “be handled according to the provisions of the Law of the People's Republic of China on the Control of Firearms.”

78. Article 1 of the Detailed Rules for the Implementation of Railway Freight Transport

Contracts shall be changed into: “These Detailed Rules are formulated according to the relevant laws to regulate railway freight transport contracts.”

79. Article 1 of the Detailed Rules for the Implementation of Waterway Freight Transport Contracts shall be changed into: “These Detailed Rules are formulated according to the relevant laws to regulate waterway freight transport contracts.”

80. The phrase “be handled according to the relevant provisions of the Forest Law and the detailed rules for the implementation thereof” in paragraph 1 of Article 6 of the Measures for the Administration of Regenerative Felling of Forests shall be changed into “be handled according to the relevant provisions of the Forest Law and the regulation on the implementation thereof.”

81. The “Fire Protection Regulation of the People's Republic of China” in Article 3 of the Measures for the Security Administration of the Hotel Industry” shall be changed into the “Fire Protection Law of the People's Republic of China.”

82. The “Interim Regulation of the People's Republic of China on the Administration of Tax Collection” in Article 14 of the Interim Regulation of the People's Republic of China on Stamp Tax shall be changed into “Law of the People's Republic of China on the Administration of Tax Collection.”

83. The “Regulation on the Epidemic Prevention of Livestock and Poultry” in Article 17 of the Regulation on the Administration of Experimental Animals shall be changed into “Animal Epidemic Prevention Law of the People's Republic of China” .

The “Regulation of the People's Republic of China on the Quarantine of Imported and Exported Animals and Plants” in Article 25 shall be changed into “Law of the People's Republic of China on the Border Quarantine of Animals and Plants.”

84. The phrase “by reference to the Interim Provisions on the Settlement of Labor Disputes in State-owned Enterprises” in Article 31 of the Regulation of the People's Republic of China on Rural Collectively-owned Enterprises” shall be changed into “according to the Labor Dispute Mediation and Arbitration Law of the People's Republic of China.”

85. The “Interim Regulation of the People's Republic of China on the Administration of Tax Collection” in Article 13 of the “Interim Regulation of the People's Republic of China on Fixed Assets Investment Orientation Regulation Tax” shall be changed into “Law of the People's Republic of China on the Administration of Tax Collection.”

86. The “Administrative Reconsideration Regulation” in Articles 35 and 36 of the Regulation on the Administration of Savings shall be changed into “Administrative Reconsideration Law of the People's Republic of China.”

87. The phrase “may apply for reconsideration to the public security organ at the next higher level according to the provisions of the Administrative Reconsideration Regulation; and may file a lawsuit with the people's court against the reconsideration decision of the public security organ at the next higher level according to the provisions of the Administrative Litigation Law of the People's Republic of China” in Article 20 of the Measures for the Institutionalized Education of Persons Engaging in Prostitution and Whoring shall be changed into “may apply for administrative reconsideration according to law, and may file a lawsuit with the people's court against the administrative reconsideration decision according to the provisions of the Administrative Litigation Law of the People's Republic of China.”

88. The “Regulation on the Epidemic Prevention of Livestock and Poultry” in Article 19 of the Regulation on Breeding Livestock and Poultry” shall be changed into “Animal Epidemic Prevention Law of the People's Republic of China.”

89. Article 1 of the Measures for the Collection of Tax on the Shipping Income of Foreign Companies shall be changed into: “To strengthen the administration of taxation on foreign companies' shipping income in China derived from their international ocean shipping business by means of vessels, these Measures are formulated in accordance with the provisions of the Law of the People's Republic of China on the Administration of Tax Collection, the Interim Regulation of the People's Republic of China on Business Tax and the relevant legal provisions on enterprise income tax.”

90. The “Detailed Rules for the Implementation of Administrative Punishments in the Customs Law” in Articles 24, 25 and 26 of the Regulation of the People's Republic of China on Customs Inspection” shall be changed into “Regulation on the Implementation of Administrative Punishments by the Customs.”

91. The “Detailed Rules for the Implementation of Administrative Punishments in the Customs Law of the People's Republic of China” in Article 28 of the Measures for the Customs Supervision in Bonded Areas shall be changed into “Regulation on the Implementation of Administrative Punishments by the Customs of the People's Republic of China.”

92. The “Food Hygiene Law” in paragraph 2 of Article 9 of the Regulation on the

Administration of Slaughtering of Pigs shall be changed into “Food Safety Law.”

93. Article 1 of the Interim Provisions on the Administrative Disciplinary Actions or the Disciplinary Actions for Violations of Foreign Exchange Administration Provisions Such as Fraudulent Purchase of Foreign Exchange, Illegal Arbitrage, Illegal Transfer of Foreign Exchange to the Overseas and Illegal Trade of Foreign Exchange shall be changed into: “These Provisions are formulated to maintain the order of national foreign exchange administration, punish violations of the foreign exchange administration provisions and prevent financial risks.”

94. Paragraph 3 of Article 4 of the Regulation on the Administration of Safety of Agricultural Genetically Modified Organisms shall be changed into: “The relevant departments of the people's governments at and above the county level shall be responsible for the supervision and administration of safety of genetically modified food according to the relevant provisions of the Food Safety Law of the People's Republic of China.”

95. The “Detailed Rules for the Implementation of Administrative Punishments in the Customs Law of the People's Republic of China” in Article 43 of the Interim Measures for the Supervision of Export Processing Zones by the Customs of the People's Republic of China shall be changed into the “Regulation on the Implementation of Administrative Punishments by the Customs of the People's Republic of China.”

96. Article 58 of the Regulation on the Administration of Central Grain Reserves shall be changed into: “The administrative disciplinary actions against the functionaries of state organs as mentioned in this Regulation shall be governed by the Civil Servant Law of the People's Republic of China; and the disciplinary actions against the personnel of China Grain Reserve Management Corporation and its branches, storage enterprises and Agricultural Development Bank of China shall be governed by the relevant provisions of the state.”

97. The “Detailed Rules for the Implementation of Administrative Punishments in the Customs Law of the People's Republic of China” in Article 66 of the Regulation of the People's Republic of China on Import and Export Duties shall be changed into “Regulation on the Implementation of Administrative Punishments by the Customs of the People's Republic of China.”

98. The “Food Hygiene Law of the People's Republic of China” in Article 45 of the Anti-doping Regulation shall be changed into “Food Safety Law of the People's Republic of China.”

99. The “Interim Regulation on State Civil Servants” in paragraph 2 of Article 32 of the Regulation on the Punishments and Disciplinary Actions for Fiscal Violations shall be changed into “Civil Servant Law of the People's Republic of China.”

(II) The sequence numbers of provisions of laws and administrative regulations quoted in the following administrative regulations shall be amended.

100. The phrase “Under the circumstances as mentioned in Article 43 of the Marine Environmental Protection Law of the People's Republic of China” in paragraph 1 of Article 15 of the Regulation of the People's Republic of China on the Dumping of Wastes at Sea shall be changed into “under the circumstances as mentioned in Articles 90 and 92 of the Marine Environmental Protection Law of the People's Republic of China.”

101. The phrase “Trees shall be felled according to Article 18 of the detailed rules for the implementation of the forest law” in Article 5 of the Measures for the Administration of Regenerative Felling of Forests shall be changed into “Trees shall be felled according to Article 30 of the Regulation on the Implementation of the Forest Law.”

The phrase “be punished according to Article 34 of the Forest Law and Article 22 of the Detailed Rules for the Implementation of the Forest Law” in Article 19 shall be changed into “be punished according to the relevant provisions of Article 39 of the Forest Law and the relevant provisions of the Regulation on the Implementation of the Forest Law.”

The phrase “according to the punishment principles in Article 34 of the Forest Law” in Article 20 shall be changed into “according to the punishment principles in Article 39 of the Forest Law.”

The phrase “be handled according to Article 38 of the Forest Law and Article 22 of the Detailed Rules for the Implementation of the Forest Law” in Article 23 shall be changed into “be handled according to Article 45 of the Forest Law and the relevant provisions of the Regulation on the Implementation of the Forest Law.”

102. The phrase “according to Article 19 of the Fishery Law of the People's Republic of China” in Article 1 of the Measures for the Collection and Use of Proliferation Protection Fees of Fishery Resources” shall be changed into “according to the relevant provisions of the Fishery Law of the People's Republic of China.”

103. The phrase “according to Article 32 of the Regulation on the Military Ranks of Officers of the People's Liberation Army of China as adopted and issued by the Second Session of the Standing Committee of the Seventh National People's Congress” in paragraph 1 of the Specific Measures for the Implementation of the Police Rank System by the People's Armed Police Force shall be changed into “according to the Regulation on the Military Ranks of Officers of the People's Liberation Army of China.”

104. The phrase “must meet the conditions as prescribed in Article 5 of the Pharmaceutical Administration Law” in Article 12 of the Measures for the Administration of Radioactive Pharmaceuticals shall be changed into “must meet the conditions as prescribed in the Pharmaceutical Administration Law.”

105. The “Provisions of Article 4 of the Customs Law of the People's Republic of China” in Article 1 of the Provisions on the Use of Weapons and Police Instruments by Customs Employees shall be changed into “provisions of Article 6 of the Customs Law of the People's Republic of China.”

106. The phrase “falling under any of the circumstances as prescribed in Article 29 of the Cultural Relics Protection Law of the People's Republic of China in paragraph 1 of Article 10 of the Regulation of the People's Republic of China on the Protection of Underwater Cultural Relics shall be changed into “falling under any of the circumstances as prescribed in the Cultural Relics Protection Law of the People's Republic of China”; and the phrase “falling under any of the circumstances as prescribed in Articles 30 and 31 of the Cultural Relics Protection Law of the People's Republic of China” in paragraph 2 shall be changed into “falling under any of the circumstances as prescribed in the Cultural Relics Protection Law of the People's Republic of China.”

107. The phrase “according to Article 12 of the Law of the People's Republic of China on Chinese-foreign Equity Joint Ventures (as amended at the Third Session of the Seventh National People's Congress on April 4, 1990)” in Article 1 of the Interim Provisions on the Contract Term of Chinese-foreign Equity Joint Ventures shall be changed into “according to the relevant provisions of the Law of the People's Republic of China on Chinese-foreign Equity Joint Ventures.”

108. The phrase “the general accountant shall proceed according to Article 19 of the Accounting Law of the People's Republic of China” in paragraph 2 of Article 10 of the Regulation on General Accountants shall be changed into “the general accountant shall proceed according to the relevant provisions of the Accounting Law of the People's Republic of China.”

109. The phrase “according to paragraph 1 of Article 37 of the Customs Law” in paragraph 2 of Article 23 of the Regulation of the People's Republic of China on Customs Inspection shall be changed into “according to paragraphs 1 and 2 of Article 60 of the Customs Law.”

The phrase “be handled according to Article 46 of the Customs Law” in Article 28 shall be changed into “according to Article 64 of the Customs Law.”

110. The phrase “commits any conduct as mentioned in Article 103 of Law on Negotiable Instruments” in Article 30 of the Implementation Measures for the Administration of Negotiable Instruments shall be changed into “commits any conduct as mentioned in Article 102 of the Law on Negotiable Instruments.”

111. The phrase “shall meet the conditions as prescribed in Articles 38 and 39 of the Urban Real Estate Administration Law of the People's Republic of China” in Article 20 of the Regulation on the Administration of Development and Operation of Urban Real Estate shall be changed into “shall meet the conditions as prescribed in Articles 39 and 40 of the Urban Real Estate Administration Law of the People's Republic of China.”

112. The phrase “according to Articles 111 and 112 of the Securities Law of the People's Republic of China” in Article 1 of the Interim Measures for the Risk Fund Management of Stock Exchanges shall be changed into “according to the relevant provisions of the Securities Law of the People's Republic of China.”

113. The phrase “technologies falling under any of the circumstances as prescribed in Articles 16 and 17 of the Foreign Trade Law” in Articles 8 and 31 of the Regulation of the People's Republic of China on the Administration of Import and Export of Technologies” shall be changed into “technologies falling under any of the circumstances as prescribed in Article 16 of the Foreign Trade Law.”

114. The phrase “be determined according to Article 48 of the Copyright Law of the People's Republic of China” in Article 25 of the Regulation on the Protection of Computer Software shall be changed into “be determined according to Article 49 of the Copyright Law of the People's Republic of China.”

The phrase “according to Article 49 of the Copyright Law of the People's Republic of China” in Article 26 shall be changed into “according to Article 50 of the Copyright Law of the People's Republic of China.”

The phrase “the copyright owner of software may, according to Article 50 of the Copyright Law of the People's Republic of China” in Article 27 shall be changed into “the copyright owner of software may, according to Article 51 of the Copyright Law of the People's Republic of China.”

115. The phrase “according to the provisions of Article 23, paragraph 2 of Article 32 and paragraph 3 of Article 39 of the copyright law” in Articles 22 and 32 of the Regulation on the Implementation of the Copyright Law of the People's Republic of China shall be changed into “according to the provisions of Article 23, paragraph 2 of Article 33 and paragraph 3 of Article 40 of the copyright law.”

The phrase “be deemed a sellout as mentioned in Article 31 of the Copyright Law” in Article 29 shall be changed into “be deemed a sellout as mentioned in Article 32 of the Copyright Law.”

The phrase “the copyright owner declares according to paragraph 2 of Article 32 of the Copyright Law” in Article 30 shall be changed into “the copyright owner declares according to paragraph 2 of Article 33 of the Copyright Law.”

The phrase “the copyright owner declares according to paragraph 3 of Article 39 of the Copyright Law” in Article 31 shall be changed into “the copyright owner declares according to paragraph 3 of Article 40 of the Copyright Law.”

The phrase “Whoever commits any of the infringements as mentioned in Article 47 of the Copyright Law” in Article 36 and paragraph 1 of Article 37 shall be changed into “Whoever commits any of the infringements as mentioned in Article 48 of the Copyright Law.”

116. The phrase “be fined according to Article 43 of the Law of the People's Republic of China on Preventing and Mitigating Earthquake Disasters” in Article 37 of the Regulation on the Administration of Earthquake Monitoring shall be changed into “be fined according to Article 85 of the Law of the People's Republic of China on Preventing and Mitigating Earthquake Disasters.”

117. The provisions “except for the royalties payable as prescribed in Article 23, paragraph 2 of Article 32, paragraph 3 of Article 39, paragraph 2 of Article 42 and Article 43 of the Copyright Law” in Article 25 of the Regulation on the Collective Management of Copyright shall be changed into “except for the royalties payable as prescribed in Article 23, paragraph 2 of Article 33, paragraph 3 of Article 40, paragraph 2 of Article 43 and Article 44 of the Copyright Law.”

The phrase “Whoever uses a work of any other person according to Article 23, paragraph 2 of Article 32 or paragraph 3 of Article 39 of the Copyright Law” in Article 47 shall be changed into “Whoever uses a work of any other person according to Article 23, paragraph 2 of Article 33 or paragraph 3 of Article 40 of the Copyright Law.”

118. The phrase “according to Article 43 of the Copyright Law of the People's Republic of China (hereinafter referred to as the “Copyright Law”)” in Article 1 of the Interim Measures for the Payment of Remuneration for Phonograms Broadcast by Radio and TV Stations shall be changed into “according to Article 44 of the Copyright Law of the People's Republic of China (hereinafter referred to as the “Copyright Law”).”

The phrase “according to Article 43 of the Copyright Law” in paragraph 3 of Article 2 shall be changed into “according to Article 44 of the Copyright Law.”

VII. The relevant provisions of the following administrative regulations shall be amended according to the Commercial Bank Law.

119. The phrase “notify its opening bank to make a transfer” in Article 32 of the Regulation of the People's Republic of China on the Registration of Legal Person Enterprises” shall be changed into “apply to the people's court for enforcement.”

120. Articles 20, 21 and 22 of the Interim Regulation on Cash Management shall be deleted.

121. Article 26 of the Regulation on the Administration of Corporate Bonds shall be changed into: “Where an enterprise issues corporate bonds without approval or in a disguised form, or fails to issue corporate bonds through a securities business institution, it shall be ordered to cease the issue and return all illegally raised funds, and be fined not more than 5% of the illegally raised funds.”

Article 27 shall be changed into: “Where an enterprise issues corporate bonds exceeding the approved amount, it shall be ordered to return the excess or decrease the credit line by an amount equivalent to the excess, and be fined not more than 5% of the excess.”

122. The phrase “No entity or individual shall use the relevant funds without approval” in paragraph 1 of Article 13 of the Measures for Banning Illegal Financial Institutions and Illegal Financial Business Activities shall be deleted.

中华人民共和国国务院令

第 588 号

《国务院关于废止和修改部分行政法规的决定》已经 2010 年 12 月 29 日国务院第 138 次常务会议通过，现予公布，自公布之日起施行。

总 理 温家宝

二〇一一年一月八日

国务院关于废止和修改部分行政法规的决定

为进一步深入贯彻依法治国基本方略，维护社会主义法制统一，全面推进依法行政，国务院在 1983 年以来已对行政法规进行过 4 次全面清理的基础上，根据经济社会发展和改革深化的新情况、新要求，再次对截至 2009 年底现行的行政法规共 691 件进行了全面清理。经过清理，国务院决定：

- 一、对 7 件行政法规予以废止。（附件 1）
 - 二、对 107 件行政法规的部分条款予以修改。（附件 2）
- 本决定自公布之日起施行。

- 附件：1. 国务院决定废止的行政法规
2. 国务院决定修改的行政法规

附件 1：

国务院决定废止的行政法规

- 一、关于各地厂矿对于法定假日工资发放办法的决定（1950 年 7 月 31 日政务院公布）
- 二、关于保护机场净空的规定（1982 年 12 月 11 日国务院、中央军委公布）
- 三、金融机构代客户办理即期和远期外汇买卖管理规定（1987 年 12 月 13 日国务院批准 1988 年 3 月 5 日国家外汇管理局公布）
- 四、境外投资外汇管理办法（1989 年 2 月 5 日国务院批准 1989 年 3 月 6 日国家

外汇管理局公布)

五、境外金融机构管理办法(1990年3月12日国务院批准 1990年4月13日中国人民银行令第1号公布)

六、中华人民共和国企业劳动争议处理条例(1993年7月6日中华人民共和国国务院令第117号公布)

七、石油天然气管道保护条例(2001年8月2日中华人民共和国国务院令第313号公布)

附件2:

国务院决定修改的行政法规

一、对下列行政法规中明显不适应社会主义市场经济和社会发展要求的规定作出修改

1. 将《中华人民共和国对外合作开采海洋石油资源条例》第五条中的“国家长期经济计划”修改为“国家规定”。

2. 将《中华人民共和国城市维护建设税暂行条例》第二条、第三条、第五条中的“产品税”修改为“消费税”。

3. 将《征收教育费附加的暂行规定》第二条、第六条中的“产品税”修改为“消费税”。

4. 删去《全民所有制工业企业厂长工作条例》第三十四条第二项。

5. 删去《铁路货物运输合同实施细则》第三条第二款。

6. 删去《水路货物运输合同实施细则》第三条。

7. 将《全民所有制工业企业承包经营责任制暂行条例》第十九条第一款修改为：“国务院对税种、税率进行重大调整，合同双方可按国务院规定协商变更承包经营合同。”

8. 删去《中华人民共和国乡村集体所有制企业条例》第三十六条第一项。

9. 将《关于外商参与打捞中国沿海水域沉船沉物管理办法》第十条第一款修改为：“外商与中方打捞人签订的共同打捞合同，应当符合《中华人民共和国合同法》的有关规定。”

10. 删去《全民所有制工业企业转换经营机制条例》第八条第四、五、六款，第十条第二、三款，第十一条第二、三、四款，第十三条第六款。

第二十八条修改为：“企业为实现政府规定的社会公益目标，由于定价原因而形成的政策性亏损，物价部门应当依法调整或者放开产品价格，予以解决。不能调整或者放开产品价格的，经财政部门审查核准，给予相应的补贴或者其他方式补偿。采取上述措

施后，企业仍然亏损的，作为经营性亏损处理。”

删去第四十七条第一项、第四十八条第一项。

11. 删去《企业国有资产监督管理暂行条例》第二十七条。

二、对下列行政法规中关于“征用”的规定作出修改

(一) 将下列行政法规中的“征用”修改为“征收、征用”。

12. 《中华人民共和国森林法实施条例》第十六条。

(二) 将下列行政法规中的“征用”修改为“征收”。

13. 《电力设施保护条例》第十八条。

14. 《中华人民共和国城镇土地使用税暂行条例》第九条。

15. 《中华人民共和国土地增值税暂行条例》第八条。

16. 《城市房地产开发经营管理条例》第四十二条。

17. 《基本农田保护条例》第十五条。

18. 《中华人民共和国土地管理法实施条例》第二条、第二十条第一款、第二十三条、第二十五条、第二十六条第二款、第四十五条。

19. 《长江三峡工程建设移民条例》第十一条第二款、第十二条。

三、删去下列行政法规中关于“投机倒把”规定并作出修改

20. 将《中华人民共和国金银管理条例》第一条修改为：“为加强对金银的管理，保证国家经济建设对金银的需要，特制定本条例。”

第三十条第二项修改为：“(二) 为保护国家金银与有关违法犯罪行为坚决斗争，事迹突出的；”

21. 删去《中华人民共和国国库券条例》第十一条第二款。

四、对下列行政法规中关于刑事责任的规定作出修改

(一) 将下列行政法规中引用已纳入刑法并被废止的关于惩治犯罪的决定的规定修改为“依照刑法有关规定”。

22. 《中华人民共和国陆生野生动物保护实施条例》第三十三条。

23. 《中华人民共和国水生野生动物保护实施条例》第二十六条。

(二) 对下列行政法规中关于追究刑事责任的具体规定作出修改。

24. 将《中华人民共和国公民出境入境管理法实施细则》第二十三条中的“依照《全国人民代表大会常务委员会关于严惩组织、运送他人偷越国(边)境犯罪的补充规定》的有关条款的规定追究刑事责任”修改为“依法追究刑事责任”。

第二十四条、第二十五条、第二十六条中的“依照《中华人民共和国刑法》和《全国人民代表大会常务委员会关于严惩组织、运送他人偷越国(边)境犯罪的补充规定》的有关条款的规定追究刑事责任”修改为“依法追究刑事责任”。

25. 将《民兵工作条例》第四十三条第二款中的“参照《中华人民共和国兵役法》和《中华人民共和国刑法》的有关规定处罚”修改为“参照《中

华人民共和国兵役法》的有关规定处罚；构成犯罪的，依法追究刑事责任”。

五、对下列行政法规中关于治安管理处罚的规定作出修改

(一) 将下列行政法规中引用的“治安管理处罚条例”修改为“治安管理处罚法”。

26. 《电力设施保护条例》第三十条。
27. 《旅馆业治安管理办法》第十七条。
28. 《中华人民共和国河道管理条例》第四十五条、第四十六条。
29. 《开发建设晋陕蒙接壤地区水土保持规定》第十七条、第十八条。
30. 《中华人民共和国渔港水域交通安全管理条例》第二十六条。
31. 《有线电视管理暂行办法》第十七条。
32. 《中华人民共和国考古涉外工作管理办法》第十八条。
33. 《水库大坝安全管理条例》第二十九条、第三十二条第二款。
34. 《中华人民共和国防汛条例》第四十三条、第四十六条第二款。
35. 《中华人民共和国城镇集体所有制企业条例》第六十三条。
36. 《中华人民共和国集会游行示威法实施条例》第二十四条第二款、第二十七条。
37. 《城市绿化条例》第二十七条、第三十二条第二款。
38. 《城市市容和环境卫生管理条例》第三十八条、第三十九条、第四十条第二款。
39. 《电网调度管理条例》第三十条。
40. 《中华人民共和国水土保持法实施条例》第三十一条。
41. 《核电厂核事故应急管理条例》第三十八条。
42. 《中华人民共和国计算机信息系统安全保护条例》第二十四条。
43. 《残疾人教育条例》第五十条第二款。
44. 《中华人民共和国自然保护区条例》第三十九条。
45. 《破坏性地震应急条例》第三十七条。
46. 《国防交通条例》第五十一条。
47. 《民兵武器装备管理条例》第四十三条。
48. 《淮河流域水污染防治暂行条例》第四十条。
49. 《中华人民共和国航标条例》第二十四条。
50. 《中华人民共和国监控化学品管理条例》第二十五条。
51. 《城市道路管理条例》第四十三条。
52. 《国家重点建设项目管理办法》第二十四条。
53. 《中华人民共和国测量标志保护条例》第二十五条。
54. 《计算机信息网络国际联网安全保护管理办法》第二十条。
55. 《互联网信息服务管理办法》第二十条。
56. 《国务院关于禁止在市场经济活动中实行地区封锁的规定》第二十四条第一款。
57. 《中华人民共和国内河交通安全管理条例》第九十条。

58. 《互联网上网服务营业场所管理条例》第二十九条第二款。

59. 《无照经营查处取缔办法》第十八条。

60. 《突发公共卫生事件应急条例》第五十一条。

61. 《医疗废物管理条例》第五十条。

62. 《中央储备粮管理条例》第五十七条。

63. 《民用运力国防动员条例》第四十九条。

(二) 对下列行政法规中关于治安管理处罚的具体规定作出修改。

64. 将《旅馆业治安管理办法》第十八条中的“按照《中华人民共和国治安管理处罚条例》第三十九条规定的程序办理”修改为“按照《中华人民共和国治安管理处罚法》第一百零二条的规定办理”。

65. 删去《中华人民共和国城镇集体所有制企业条例》第六十二条。

66. 将《中华人民共和国陆生野生动物保护实施条例》第四十一条中的“尚不构成犯罪的，由公安机关依照《中华人民共和国治安管理处罚条例》的规定处罚”修改为“尚不构成犯罪，应当给予治安管理处罚的，由公安机关依照《中华人民共和国治安管理处罚法》的规定予以处罚”。

67. 将《中华人民共和国集会游行示威法实施条例》第二十四条第一款中的“拒绝、阻碍人民警察依法执行维持交通秩序和社会秩序职务的，依照治安管理处罚条例的规定予以处罚”修改为“拒绝、阻碍人民警察依法执行维持交通秩序和社会秩序职务，应当给予治安管理处罚的，依照治安管理处罚法的规定予以处罚”。

第二十九条修改为：“在举行集会、游行、示威的过程中，破坏公私财物或者侵害他人身体造成伤亡的，应当依法承担赔偿责任。”

68. 将《卖淫嫖娼人员收容教育办法》第七条第一款中的“除依照《中华人民共和国治安管理处罚条例》第三十条的规定处罚外”修改为“除依照《中华人民共和国治安管理处罚法》第六十六条的规定处罚外”。

69. 将《中华人民共和国水生野生动物保护实施条例》第三十二条中的“尚不构成犯罪的，由公安机关依照《中华人民共和国治安管理处罚条例》的规定处罚”修改为“尚不构成犯罪，应当给予治安管理处罚的，由公安机关依照《中华人民共和国治安管理处罚法》的规定予以处罚”。

70. 将《制止牟取暴利的暂行规定》第十三条中的“未使用暴力、威胁方法的，由公安机关依照治安管理处罚条例的有关规定处罚”修改为“未使用暴力、威胁方法，构成违反治安管理行为的，由公安机关依照治安管理处罚法的有关规定予以处罚”。

71. 将《中华人民共和国民用航空安全保卫条例》第三十四条修改为：“违反本条例第十四条的规定或者有本条例第十六条、第二十四条第一项、第二十五条所列行为，构成违反治安管理行为的，由民航公安机关依照《中华人民共和国治安管理处罚法》有关规定予以处罚；有本条例第二十四条第二项所列行为的，由民航公安机关依照《中华

《中华人民共和国居民身份证法》有关规定予以处罚。”

六、对下列行政法规中引用法律、行政法规名称或者条文不对应的规定作出修改

(一) 对下列行政法规中引用法律、行政法规名称作出修改。

72. 将《中华人民共和国海关船舶吨税暂行办法》第十一条第五项中的“暂行海关法第二十七条规定”修改为“法律、行政法规规定”。

73. 将《中华人民共和国国境口岸卫生监督办法》第一条修改为：“为了加强国境口岸和国际航行交通工具的卫生监督工作，改善国境口岸和交通工具的卫生面貌，控制和消灭传染源，切断传播途径，防止传染病由国外传入和由国内传出，保障人民身体健康，制定本办法。”

74. 将《中华人民共和国中外合资经营企业法实施条例》第七十六条中的“《中华人民共和国外商投资企业和外国企业所得税法》”修改为“《中华人民共和国企业所得税法》”。

第九十一条中的“按照《外商投资企业清算办法》的规定”修改为“依法”。

75. 将《产品质量监督试行办法》第一条修改为：“为了加强对产品的质量监督，促使企业贯彻执行产品技术标准，提高产品质量和经济效益，以适应社会主义现代化建设和人民生活的需要，制定本办法。”

76. 将《中华人民共和国房产税暂行条例》第八条中的“《中华人民共和国税收征收管理暂行条例》”修改为“《中华人民共和国税收征收管理法》”。

77. 将《中华人民共和国海关总署关于外国驻中国使馆和使馆人员进出境物品的规定》第五条第四款中的“按照《中华人民共和国枪支管理办法》的规定办理”修改为“按照《中华人民共和国枪支管理法》的规定办理”。

78. 将《铁路货物运输合同实施细则》第一条修改为：“为了规范铁路货物运输合同，根据有关法律，制定本细则。”

79. 将《水路货物运输合同实施细则》第一条修改为：“为了规范水路货物运输合同，根据有关法律，制定本细则。”

80. 将《森林采伐更新管理办法》第六条第一款中的“按森林法及其实施细则的有关规定办理”修改为“按森林法及其实施条例的有关规定办理”。

81. 将《旅馆业治安管理办法》第三条中的“《中华人民共和国消防条例》”修改为“《中华人民共和国消防法》”。

82. 将《中华人民共和国印花税法暂行条例》第十四条中的“《中华人民共和国税收征收管理暂行条例》”修改为“《中华人民共和国税收征收管理法》”。

83. 将《实验动物管理条例》第十七条中的“《家畜家禽防疫条例》”修改为“《中华人民共和国动物防疫法》”。

第二十五条中的“《中华人民共和国进出口动植物检疫条例》”修改为“《中华人民共和国进出境动植物检疫法》”。

84. 将《中华人民共和国乡村集体所有制企业条例》第三十一条中的“参照《国营企业劳动争议处理暂行规定》”修改为“依照《中华人民共和国劳动争议调解仲裁法》”。

85. 将《中华人民共和国固定资产投资方向调节税暂行条例》第十三条中的“《中华人民共和国税收征收管理暂行条例》”修改为“《中华人民共和国税收征收管理法》”。

86. 将《储蓄管理条例》第三十五条、第三十六条中的“《行政复议条例》”修改为“《中华人民共和国行政复议法》”。

87. 将《卖淫嫖娼人员收容教育办法》第二十条中的“可以依照《行政复议条例》的规定向上一级公安机关申请复议；对上一级公安机关的复议决定不服的，可以依照《中华人民共和国行政诉讼法》的规定向人民法院提起诉讼”修改为“可以依法申请行政复议；对行政复议决定不服的，可以依照《中华人民共和国行政诉讼法》的规定向人民法院提起诉讼”。

88. 将《种畜禽管理条例》第十九条中的“《家畜家禽防疫条例》”修改为“《中华人民共和国动物防疫法》”。

89. 将《外国公司船舶运输收入征税办法》第一条修改为：“为了加强对外国公司以船舶从事国际海运业务从中国取得运输收入的税收管理，根据《中华人民共和国税收征收管理法》、《中华人民共和国营业税暂行条例》以及企业所得税相关法律的规定，制定本办法。”

90. 将《中华人民共和国海关稽查条例》第二十四条、第二十五条、第二十六条中的“海关法行政处罚实施细则”修改为“海关行政处罚实施条例”。

91. 将《保税区海关监管办法》第二十八条中的“《中华人民共和国海关法行政处罚实施细则》”修改为“《中华人民共和国海关行政处罚实施条例》”。

92. 将《生猪屠宰管理条例》第九条第二款中的“食品卫生法”修改为“食品安全法”。

93. 将《关于骗购外汇、非法套汇、逃汇、非法买卖外汇等违反外汇管理规定行为的行政处分或者纪律处分暂行规定》第一条修改为：“为了维护国家外汇管理秩序，惩处违反外汇管理规定的行为，防范金融风险，制定本规定。”

94. 将《农业转基因生物安全管理条例》第四条第三款修改为：“县级以上各级人民政府有关部门依照《中华人民共和国食品安全法》的有关规定，负责转基因食品安全的监督管理工作。”

95. 将《中华人民共和国海关对出口加工区监管的暂行办法》第四十三条中的“《中华人民共和国海关法行政处罚实施细则》”修改为“《中华人民共和国海关行政处罚实施条例》”。

96. 将《中央储备粮管理条例》第五十八条修改为：“本条例规定的对国家机关工作人员的行政处分，依照《中华人民共和国公务员法》的规定执行；对中国储备粮管理总公司及其分支机构、承储企业、中国农业发展银行工作人员的纪律处分，依照国家有

关规定执行。”

97. 将《中华人民共和国进出口关税条例》第六十六条中的“《中华人民共和国海关行政处罚实施细则》”修改为“《中华人民共和国海关行政处罚实施条例》”。

98. 将《反兴奋剂条例》第四十五条中的“《中华人民共和国食品卫生法》”修改为“《中华人民共和国食品安全法》”。

99. 将《财政违法行为处罚处分条例》第三十二条第二款中的“《国家公务员暂行条例》”修改为“《中华人民共和国公务员法》”。

(二) 对下列行政法规中引用的法律、行政法规条文序号作出修改。

100. 将《中华人民共和国海洋倾废管理条例》第十五条第一款中的“凡属《中华人民共和国海洋环境保护法》第四十三条规定的情形”修改为“凡属《中华人民共和国海洋环境保护法》第九十条、第九十二条规定的情形”。

101. 将《森林采伐更新管理办法》第五条中的“采伐林木按照森林法实施细则第十八条规定”修改为“采伐林木按照森林法实施条例第三十条规定”。

第十九条中的“依照森林法第三十四条和森林法实施细则第二十二条的规定处罚”修改为“依照森林法第三十九条和森林法实施条例的有关规定处罚”。

第二十条中的“根据森林法第三十四条规定的处罚原则”修改为“根据森林法第三十九条规定的处罚原则”。

第二十三条中的“依照森林法第三十八条和森林法实施细则第二十二条的规定处理”修改为“依照森林法第四十五条和森林法实施条例的有关规定处理”。

102. 将《渔业资源增殖保护费征收使用办法》第一条中的“根据《中华人民共和国渔业法》第十九条的规定”修改为“根据《中华人民共和国渔业法》的有关规定”。

103. 将《中国人民武装警察部队实行警官警衔制度的具体办法》第一段中的“根据第七届全国人民代表大会常务委员会第二次会议通过颁布的《中国人民解放军军官军衔条例》第三十二条规定”修改为“根据《中国人民解放军军官军衔条例》”。

104. 将《放射性药品管理办法》第十二条中的“必须具备《药品管理法》第五条规定的条件”修改为“必须具备《药品管理法》规定的条件”。

105. 将《海关工作人员使用武器和警械的规定》第一条中的“《中华人民共和国海关法》第四条的规定”修改为“《中华人民共和国海关法》第六条的规定”。

106. 将《中华人民共和国水下文物保护管理条例》第十条第一款中的“符合《中华人民共和国文物保护法》第二十九条各项规定情形的”修改为“符合《中华人民共和国文物保护法》规定情形的”；第二款中的“具有《中华人民共和国文物保护法》第三十条、第三十一条各项规定情形的”修改为“具有《中华人民共和国文物保护法》规定情形的”。

107. 将《中外合资经营企业合营期限暂行规定》第一条中的“根据《中华人民共和国中外合资经营企业法》（一九九〇年四月四日第七届全国人民代表大会第三次会议修

正)第十二条的规定”修改为“根据《中华人民共和国中外合资经营企业法》的有关规定”。

108. 将《总会计师条例》第十条第二款中的“总会计师应当依照《中华人民共和国会计法》第十九条的规定执行”修改为“总会计师应当依照《中华人民共和国会计法》的有关规定执行”。

109. 将《中华人民共和国海关稽查条例》第二十三条第二款中的“依照海关法第三十七条第一款”修改为“依照海关法第六十条第一款、第二款”。

第二十八条中的“依照海关法第四十六条的规定办理”修改为“依照海关法第六十四条的规定办理”。

110. 将《票据管理实施办法》第三十条中的“有票据法第一百零三条所列行为之一”修改为“有票据法第一百零二条所列行为之一”。

111. 将《城市房地产开发经营管理条例》第二十条中的“应当符合《中华人民共和国城市房地产管理法》第三十八条、第三十九条规定的条件”修改为“应当符合《中华人民共和国城市房地产管理法》第三十九条、第四十条规定的条件”。

112. 将《证券交易所风险基金管理暂行办法》第一条中的“根据《中华人民共和国证券法》第一百一十一条、一百一十二条规定”修改为“根据《中华人民共和国证券法》的有关规定”。

113. 将《中华人民共和国技术进出口管理条例》第八条、第三十一条中的“有对外贸易法第十六条、第十七条规定情形之一的技术”修改为“有对外贸易法第十六条规定情形之一的技术”。

114. 将《计算机软件保护条例》第二十五条中的“依照《中华人民共和国著作权法》第四十八条的规定确定”修改为“依照《中华人民共和国著作权法》第四十九条的规定确定”。

第二十六条中的“可以依照《中华人民共和国著作权法》第四十九条的规定”修改为“可以依照《中华人民共和国著作权法》第五十条的规定”。

第二十七条中的“软件著作权人可以依照《中华人民共和国著作权法》第五十条的规定”修改为“软件著作权人可以依照《中华人民共和国著作权法》第五十一条的规定”。

115. 将《中华人民共和国著作权法实施条例》第二十二条、第三十二条中的“依照著作权法第二十三条、第三十二条第二款、第三十九条第三款的规定”修改为“依照著作权法第二十三条、第三十三条第二款、第四十条第三款的规定”。

第二十九条中的“视为著作权法第三十一条所称图书脱销”修改为“视为著作权法第三十二条所称图书脱销”。

第三十条中的“著作权人依照著作权法第三十二条第二款声明”修改为“著作权人依照著作权法第三十三条第二款声明”。

第三十一条中的“著作权人依照著作权法第三十九条第三款声明”修改为“著作权

人依照著作权法第四十条第三款声明”。

第三十六条、第三十七条第一款中的“有著作权法第四十七条所列侵权行为”修改为“有著作权法第四十八条所列侵权行为”。

116. 将《地震监测管理条例》第三十七条中的“依照《中华人民共和国防震减灾法》第四十三条的规定处以罚款”修改为“依照《中华人民共和国防震减灾法》第八十五条的规定处以罚款”。

117. 将《著作权集体管理条例》第二十五条中的“除著作权法第二十三条、第三十二条第二款、第三十九条第三款、第四十二条第二款和第四十三条规定应当支付的使用费外”修改为“除著作权法第二十三条、第三十三条第二款、第四十条第三款、第四十三条第二款和第四十四条规定应当支付的使用费外”。

第四十七条中的“依照著作权法第二十三条、第三十二条第二款、第三十九条第三款的规定使用他人作品”修改为“依照著作权法第二十三条、第三十三条第二款、第四十条第三款的规定使用他人作品”。

118. 将《广播电台电视台播放录音制品支付报酬暂行办法》第一条中的“根据《中华人民共和国著作权法》（以下称著作权法）第四十三条的规定”修改为“根据《中华人民共和国著作权法》（以下称著作权法）第四十四条的规定”。

第二条第三款中的“依照著作权法第四十三条的规定”修改为“依照著作权法第四十四条的规定”。

七、对下列行政法规的有关规定根据商业银行法作出修改

119. 将《中华人民共和国企业法人登记管理条例》第三十二条中的“通知其开户银行予以划拨”修改为“申请人民法院强制执行”。

120. 删去《现金管理暂行条例》第二十条、第二十一条、第二十二条。

121. 将《企业债券管理条例》第二十六条修改为：“未经批准发行或者变相发行企业债券的，以及未通过证券经营机构发行企业债券的，责令停止发行活动，退还非法所筹资金，处以相当于非法所筹资金金额百分之五以下的罚款。”

第二十七条修改为：“超过批准数额发行企业债券的，责令退还超额发行部分或者核减相当于超额发行金额的贷款额度，处以相当于超额发行部分百分之五以下的罚款。”

122. 删去《非法金融机构和非法金融业务活动取缔办法》第十三条第一款中的“任何单位和个人不得擅自动用有关资金。”

Anti-Monopoly Law of the People's Republic of China

(Adopted at the 29th Session of the Standing Committee of the 10th National People's Congress on August 30, 2007)

TABLE OF CONTENTS

Chapter I	General Provisions
Chapter II	Monopoly Agreements
Chapter III	Abuse of Dominant Market Position
Chapter IV	Concentration of Undertakings
Chapter V	Abuse of Administrative Powers to Eliminate or Restrict Competition
Chapter VI	Investigation of Suspected Monopolistic Conducts
Chapter VII	Legal Liability
Chapter VIII	Supplementary Provisions

Chapter I General Provisions

Article 1

This Law is enacted for the purposes of guarding against and prohibiting monopolistic conduct, safeguarding fair market competition, improving economic efficiency, protecting the interests of consumers and public interests, and promoting the healthy development of the socialist market economy.

Article 2

This Law is applicable to monopolistic conducts in economic activities within the territory of the People's Republic of China; this Law is applicable to conducts outside the territory of the People's Republic of China that have eliminative or restrictive effects on competition in the domestic market of the People's Republic of China.

Article 3

Monopolistic conduct under this Law includes:

- (1) Undertakings concluding monopoly agreements;
- (2) Abuse of dominant market position by undertakings;
- (3) Concentration of undertakings that has or may have the effect of eliminating or restricting competition.

Article 4

The State shall formulate and implement competition rules, which are suitable to the socialist market economy, improve macroeconomic control, as well as improve a unified, open, competitive and orderly market system.

Article 5

Undertakings may implement concentration through fair competition and voluntary coalition in accordance with law to expand their business scale and increase their market competitiveness.

Article 6

Undertakings with a dominant market position shall not abuse their market dominant position to eliminate or restrict competition.

Article 7

With respect to industries that are dominated by the State-owned economy and that have a direct bearing on national economic wellbeing and national security, as well as industries that conduct exclusive and monopolistic sales in accordance with law, the State shall protect the legitimate business activities of the undertakings in these industries. The State shall implement the supervision, adjustment and control of the business operations and the prices of products and service of these undertakings in accordance with law, safeguard the legitimate interests of consumers and promote technological progress.

Undertakings of industries under the previous paragraph shall conduct their business in accordance with law in an honest and trustworthy manner, impose strict self-discipline, and accept supervision from the public. These undertakings shall not harm the interests of consumers by making use of their position of control or their position of exclusive and monopolistic sales.

Article 8

Administrative agencies and organisations empowered by laws or regulations with responsibilities for public affairs administration shall not abuse their administrative powers to eliminate or restrict competition.

Article 9

The State Council shall establish the Anti-Monopoly Commission, which shall be responsible for organizing, coordinating and guiding anti-monopoly work and it shall have the following functions:

- (1) Research and formulate relevant competition policies;
- (2) Organize investigations, assess the state of overall market competition, and issue assessment reports;
- (3) Formulate and promulgate anti-monopoly guidelines;
- (4) Coordinate the anti-monopoly administrative enforcement work ; and
- (5) Other functions as specified by the State Council.

The State Council shall stipulate the composition of and the work protocols of the Anti-Monopoly Commission under the State Council.

Article 10

The authority empowered by the State Council to have the functions for anti-monopoly law enforcement (hereafter the “Anti-Monopoly Enforcement Authority under the State Council”) is responsible for the anti-monopoly law enforcement in accordance with provisions of this Law.

If necessary in light of the practical work, the Anti-Monopoly Enforcement Authority under the State Council may delegate to corresponding agencies at the levels of province, autonomous region and municipality directly under the State Council functions for relevant anti-monopoly law enforcement in accordance with provisions of this Law.

Article 11

Industry associations shall strengthen self-disciplining of undertakings within their industries and guide these undertakings to compete in accordance with law and maintain the order of market competition.

Article 12

For the purposes of this Law, an “undertaking” means a natural person, legal person or other organization that engages in manufacturing commodities, operating or providing services.

For the purposes of this Law, a “relevant market” means the product scope or territory within which undertakings compete with respect to specific products or services (hereafter collectively “products”) during a certain period.

Chapter II Monopoly Agreements

Article 13

The following Monopoly Agreements among undertakings with competing relationships shall be prohibited:

- (1) Fix or change prices of products;
- (2) Restrict the production output or sales volume of products;
- (3) Allocate the sales markets or the raw material purchasing markets;
- (4) Restrict the purchase of new technology or new equipment, or restricts the development of new technology or new products;
- (5) Jointly boycott transactions; and
- (6) Other Monopoly Agreements as otherwise determined by the Anti-Monopoly Enforcement Authority under the State Council.

A monopolistic agreement referred to in this Law refers to any agreements, decisions or other concerted actions that eliminate or restrict competition.

Article 14

Undertakings are prohibited from reaching the following Monopoly Agreements with their counter-parties that:

- (1) Fix the resale price of products with respect to third parties;
- (2) Restrict the minimal resale price of products with respect to the third parties;
- (3) are monopoly agreements as otherwise determined by the Anti-monopoly Enforcement Authority under the State Council.

Article 15

Monopoly Agreements between undertakings that can be proven to fall under any of the following cases shall be exempt from the application of Article 13 and Article 14:

- (1) For the purpose of technology improvement, or research and development of new products;
- (2) For the purpose of upgrading product quality, reducing cost and improving efficiency, unifying products specifications or standards or implementing the division of labour based on specialization;
- (3) For the purpose of improving operational efficiency of small and medium-sized undertakings and enhancing their competitiveness;
- (4) For the purpose of achieving such public interests as energy savings, environmental protection, disaster relief and other charitable assistance;
- (5) For the purpose of mitigating serious decrease in sales volumes or distinctive production oversupply during economic depression.
- (6) For the purpose of safeguarding the legitimate interests in foreign trade and economic cooperation; or
- (7) Other circumstances as stipulated by law and the State Council. (*New Provision*)

In the case that Monopoly Agreements fall within the circumstances set out in subparagraphs (1) to (5), undertakings shall also prove that the agreements entered into will not substantially restrict competition in the relevant market, and consumers are able to share the benefits derived from such agreements.

Article 16

Industrial Associations shall not organize undertakings within their industries to engage in monopolistic conducts prohibited by this Chapter.

Chapter III Abuse of Dominant Market Position

Article 17

Undertakings holding a dominant market position are prohibited from engaging in the following activities by abusing their dominant market position:

- (1) Selling products at unfairly high prices or buying products at unfairly low prices;
- (2) Selling products at prices below cost without any justification;
- (3) Refusing to enter into transactions with their counter-parties without any justification;
- (4) Limiting their counter-parties to enter into transactions exclusively with them or undertakings designated by them without any justification;
- (5) Implementing tie-in sales without any justification or imposing any other unreasonable transaction terms in the course of transactions;
- (6) Applying discriminating treatment on prices or other transaction terms to their counter-parties that are in the same positions without any justification; and
- (7) Other abusive exploitations of dominant market position as determined by the Anti-Monopoly Enforcement Authority under the State Council.

For the purpose of this Law, a “dominant market position” means the market position of undertakings to control the price, quantity of products or other transaction terms in the relevant market, or to enable them to block or affect other undertakings in entering into the relevant market.

Article 18

A finding of a dominant market position of an undertaking shall be based on the following factors:

- (1) The market share of the undertaking in the relevant market, and the competitive conditions in the relevant market;
- (2) The ability of the undertaking to control the sales market or raw material purchasing market;
- (3) The financial status and technical conditions/capabilities of the undertaking;

- (4) The extent of dependence on the undertaking by other undertakings in respect to transactions;
- (5) The level of difficulty for other undertakings to enter into the relevant market; and
- (6) Other factors relating to the dominant market position of the undertaking.

Article 19

In any of the following cases, a dominant market position of an undertaking or undertakings may be presumed:

- (1) The market share of one undertaking in the relevant market accounts for 1/2;
- (2) The aggregate market share of two undertakings in the relevant market accounts for 2/3; or
- (3) The aggregate market share of three undertakings in the relevant market accounts for 3/4.

In case of sub-paragraphs (2) or (3), an undertaking with a market share of less than 1/10 shall not be presumed to hold a dominant market position.

An undertaking which is presumed to hold a dominant market position shall not be found to be in a dominant market position, if it can provide evidence which shows it does not hold a dominant market position.

Chapter IV Concentration of Undertakings

Article 20

A “concentration of undertakings” means any of the following circumstances:

- (1) A merger among undertakings;
- (2) Acquisition by an undertaking(s) of control of other undertakings through means of acquiring shares or assets; or
- (3) By contract or other means, an acquisition by an undertaking(s) of control of other undertakings, or an acquisition by an undertaking(s) of the ability to impose decisive influence on other undertakings.

Article 21

Where a concentration of undertakings meets the relevant thresholds for notification as stipulated by the State Council, the undertakings shall file a notification with the Anti-Monopoly Enforcement Authority under the State Council; without notification

with the Anti-Monopoly Enforcement Authority under the State Council, the undertakings shall be prohibited from implementing the concentration.

Article 22

In any of the following cases, the undertakings to a concentration may dispense with the notification with the Anti-monopoly Enforcement Authority under the State Council:

- (1) One undertaking to the concentration holds more than 50% of the shares with voting rights or assets of each of the other participating undertakings;
- (2) More than 50% of the shares with voting rights or assets of each of the undertakings to the concentration are owned by a single undertaking that is not participating in the concentration.

Article 23

In filing a notification of concentration with the Anti-Monopoly Enforcement Authority under the State Council, undertakings shall submit the following documents and materials:

- (1) The notification;
- (2) Explanation regarding the impact of the concentration on competition in the relevant market;
- (3) The agreement of the concentration;
- (4) The financial and accounting reports in the preceding accounting year of the undertakings participating in the concentration, which reports shall have been audited by an accountant; and
- (5) Other documents or materials required by the Anti-Monopoly Enforcement Authority under the State Council.

The notification shall specify matters such as the names, addresses, scope of business, proposed date for implementing the concentration and other matters as stipulated by the Anti-Monopoly Enforcement Authority under the State Council.

Article 24

In case that the documents and materials submitted for notification by the undertakings are not complete, the undertakings shall supplement the documents and materials within the time limit specified by the Anti-Monopoly Enforcement Authority under the State Council. Where the undertakings fail to supplement such documents or materials within the time limit, it shall be deemed that no notification is filed.

Article 25

Within 30 days from the date of receipt of the documents and materials that are consistent with provisions of Article 23 of this Law as submitted by the undertakings, the Anti-Monopoly Enforcement Authority under the State Council shall initiate the preliminary review, make a decision whether or not to initiate further review, and notify the undertakings in writing. Pending the decision of the Anti-Monopoly Enforcement Authority under the State Council, undertakings shall refrain from implementing the concentration.

Where the Anti-Monopoly Enforcement Authority under the State Council decides not to initiate further review or makes no decision within the time limit, the undertakings may implement the concentration.

Article 26

Where the Anti-monopoly Enforcement Authority under the State Council decides to initiate further review, it shall complete the review within 90 days from the date of the decision, makes a decision whether or not to prohibit the concentration of undertakings and notify the undertakings in writing; in case of a decision to prohibit the concentration of undertakings, the Anti-monopoly Enforcement Authority under the State Council shall state its reasons thereof. During the period of the further review, undertakings shall not implement the concentration.

In any of the following cases, the Anti-Monopoly Enforcement Authority under the State Council may extend the time limit specified in the above paragraph after notifying the undertakings in writing, provided that the maximum extension period does not exceed 60 days:

- (1) The undertakings agree to extend the time limit;
- (2) The documents or materials submitted by the undertakings are inaccurate and need further verification; or
- (3) Material changes have occurred with respect to relevant circumstances since the filing of the notification by the undertakings.

Where the Anti-monopoly Enforcement Authority under the State Council makes no decision within the time limit, undertakings may implement the concentration

Article 27

In reviewing a concentration of undertakings, the following factors shall be taken into consideration:

- (1) The market shares of the undertakings participating in the concentration in the relevant market(s) and their ability to control the market(s);
- (2) The degree of concentration in the relevant market(s);

- (3) The effect of the proposed concentration on market access and technological progress;
- (4) The effect of the proposed concentration on consumers and other relevant undertakings;
- (5) The effect of the proposed concentration on the development of the national economy ; and
- (6) Other factors having effects on market competition that the Anti-Monopoly Enforcement Authority under the State Council considers shall be taken into consideration.

Article 28

Where the concentration of undertakings has or may have the effect of eliminating or restricting competition, the Anti-monopoly Enforcement Authority under the State Council shall make a decision to prohibit the concentration of undertakings. However, the Anti-Monopoly Enforcement Authority under the State Council may make a decision not to prohibit the concentration of undertakings where the undertakings can prove that its positive effects on competition significantly outweighs its negative effects on competition, or that the concentration of undertakings is in the public interest.

Article 29

Where the Anti-Monopoly Enforcement Authority under the State Council does not prohibit the concentration of undertakings, it may decide to impose restrictive conditions on the concentration of undertakings to reduce anti-competitive effects arising from the concentration.

Article 30

The Anti-Monopoly Enforcement Authority under the State Council shall make a public announcement in a timely manner with respect to a decision to prohibit a concentration of undertakings or a decision to impose restrictive conditions on the concentration of undertakings.

Article 31

With respect to mergers with and acquisitions of domestic enterprises by foreign investors or other forms of concentration involving foreign investors that concern national security, apart from the review of concentration of undertakings under this Law, they shall be examined in accordance with relevant provisions of the State for national security review.

Chapter V Abuse of Administrative Powers to Eliminate or Restrict Competition

Article 32

Administrative agencies and organisations empowered by laws or regulations with responsibilities for public affairs administration shall not abuse their administrative powers to mandate or mandate in disguised form any entities or persons to operate, buy or use only the products supplied by the undertakings designated by them.

Article 33

Administrative agencies and organisations empowered by laws or regulations with responsibilities for public affairs administration shall not abuse their administrative powers and take any of the following actions that impede the free flow of products among different regions:

- (1) To set discriminatory items for fees or charges, implement discriminatory fee standards or fix discriminatory prices for products originated from other regions;
- (2) To impose on products originated from other regions technical requirements or inspection standards different from those on similar local products, or require repeated inspection or certification on products originated from other regions, restricting entry of products originated from other regions into the local markets;
- (3) To implement administrative license measures as applicable only to products originated from other regions, restricting entry of products originated from other regions into the local markets;
- (4) To prevent entry of products originated from other regions into the local markets or the exit/sale of the local products into other regions by setting up checkpoints or other means; or
- (5) Other actions which impede the free flow of products among different regions.

Article 34

Administrative agencies and organisation empowered by laws or regulations with responsibilities for public affairs administration shall not abuse their administrative powers to reject or restrict the participation of undertakings from other regions in local bidding activities by such means as prescribing discriminatory qualification requirements or assessment standards, or by not publishing information according to law.

Article 35

Administrative agencies and organisation empowered by laws or regulations with responsibilities for public affairs administration shall not abuse their administrative powers to reject or restrict investment or the establishment of branches in their regions by undertakings from other regions by such means as according treatment unequal to that enjoyed by their local undertakings.

Article 36

Administrative agencies and organisation empowered by laws or regulations with responsibilities for public affairs administration shall not abuse their administrative powers to compel undertakings to engage in monopolistic conducts prohibited by this Law.

Article 37

Administrative agencies shall not abuse their administrative powers to make regulations containing provisions eliminating or restricting competition.

Chapter VI Investigation of Suspected Monopolistic Conducts

Article 38

The Anti-Monopoly Enforcement Authority shall investigate suspected monopolistic conducts in accordance with the law.

Any entity or individual shall have the right to report any suspected monopolistic conducts to the Anti-Monopoly Enforcement Authority. The Anti-monopoly Enforcement Authority shall maintain confidentiality for such entity or individual.

Where such report is in writing and furnished with relevant facts and evidence, the Anti-Monopoly Enforcement Authority shall conduct necessary investigations.

Article 39

In investigating suspected monopolistic conducts, the Anti-monopoly Enforcement Authority may take the following measures:

- (1) To enter into the business premises or other places of the investigated undertakings for inspection;
- (2) To interview undertakings, interested parties or other relevant entities or individuals being investigated, and request them to explain the relevant facts and circumstances;
- (3) To inspect and copy relevant documents and materials of undertakings, interested parties or other relevant entities or individuals being investigated,

such as relevant vouchers and certificates, agreements, accounting books, business correspondence, electronic data;

- (4) To seal or seize relevant evidence; and
- (5) To examine bank accounts of the undertakings.

Measures in the above paragraph shall be applied only after a written report is submitted to principal responsible persons of the Anti-Monopoly Enforcement Authority and the relevant approval is obtained.

Article 40

For investigation of suspected monopolistic conducts by the Anti-monopoly Enforcement Authority, there shall be at least two enforcement officers attending the investigation, and they shall present the proofs of enforcement certificates.

Enforcement officers shall maintain written record of their inquiries and such written record shall be signed by those being interviewed or investigated.

Article 41

The Anti-Monopoly Enforcement Authority and its staff shall keep confidential the commercial secrets obtained during the course of law enforcement.

Article 42

Undertakings, interested parties, other relevant organizations or individuals being investigated shall cooperate with the Anti-Monopoly Enforcement Authority with respect to the performance of its functions and shall not refuse or hinder the investigation by the Anti-Monopoly Enforcement Authority.

Article 43

Undertakings being investigated and interested parties shall have the right to state their opinions. The Anti-Monopoly Enforcement Authority shall verify the facts, reasons and supporting evidences furnished by the undertakings being investigated or interested parties.

Article 44

After investigations and verification, if the Anti-Monopoly Enforcement Authority considers that the suspected monopolistic conduct constitutes monopolistic conduct, it shall make a decision in accordance with law and may publish the decision to the public.

Article 45

With respect to a suspected monopolistic conduct that is investigated by the Anti-Monopoly Enforcement Authority, if the undertaking being investigated undertakes to take concrete measures to eliminate consequences of such monopolistic conduct within the time limit accepted by the Anti-Monopoly Enforcement Authority, the Anti-Monopoly Enforcement Authority may decide to suspend the investigation. The decision to suspend the investigation shall expressly state detailed contents of such commitments of the undertaking.

Where the Anti-Monopoly Enforcement Authority decides to suspend the investigation, it shall monitor the undertaking's performance of its commitments. Where the undertaking performed its commitments, the Anti-Monopoly Enforcement Authority may decide to cease the investigation.

In any of the following circumstances, the Anti-monopoly Enforcement Authority shall resume its investigation:

- (1) Where the undertaking fails to meet its commitments;
- (2) Where material changes have occurred with respect to the facts on which the decision to suspend the investigation is based;
- (3) Where the decision to suspend the investigation was made based on incomplete or inaccurate information provided by the undertaking.

Chapter VII Legal Liability

Article 46

For undertakings that enter into any monopoly agreement in violation of provisions of this Law, the Anti-Monopoly Enforcement Authority is authorised to order such undertakings to cease and desist such act, confiscate the illegal gains and impose fines of more than 1% and less than 10% of the turnover in the preceding year; fines of no more than RMB 500,000 yuan may be imposed where the monopolistic agreement has not yet been implemented.

Where any undertaking on its own initiative reports the relevant circumstances of the monopoly agreement and furnishes important evidence to the Anti-monopoly Enforcement Authority, the Anti-Monopoly Enforcement Authority may in its discretion mitigate or exempt such undertaking from punishment.

For industrial associations that organize the undertakings within their industries to reach monopoly agreements, the Anti-Monopoly Enforcement Authority may impose fines of no more than RMB 500,000 yuan; in serious circumstances, the authority for registration and administration of social organizations may revoke the registration of the industrial associations according to law.

Article 47

For undertakings that abuse their dominant market position in violation of provisions of this Law, the Anti-Monopoly Enforcement Authority is authorised to order such undertakings to cease and desist such an act, confiscate the illegal gains, and impose fines of more than 1% and less than 10% of the turnover in the preceding year.

Article 48

For undertakings that implement concentrations in violation of provisions of this Law, the Anti-Monopoly Enforcement Authority under the State Council is authorised to order such undertakings to cease the implementation of the concentration, or to dispose of shares or assets or transfer businesses within a given time limit, and take other measures necessary to restore to the state before the concentration of such undertakings, and may impose fines of no more than RMB 500,000 yuan.

Article 49

In determining the specific amount of fines imposed under Articles 46, 47 and 48 of this Law, the Anti-Monopoly Enforcement Authority shall take into account such factors as the nature, extent and duration of an illegal conduct.

Article 50

Undertakings shall be responsible for civil liabilities according to law for losses caused to others as a result of their monopolistic conducts.

Article 51

Where any administrative agency or organisation empowered by laws or regulations with responsibilities for public affairs administration engages in conducts that eliminate or restrict competition in abuse of their administrative powers, its superior agency shall order it to make correction; the persons directly in charge and others who are directly responsible shall be subject to disciplinary sanctions in accordance with law. The Anti-Monopoly Enforcement Authority may make proposals to the relevant superior agency of the administrative agency or organisation empowered by laws or regulations with responsibilities for public affairs administration on handling of the case in accordance with law.

Where laws or administrative regulations otherwise make provisions for the regulation of conducts eliminating or restricting competition by administrative agency or organisation empowered by laws or regulations with responsibilities for public affairs administration in abuse of their administrative powers, such provisions shall prevail.

Article 52

If any individual or entity in an examination and investigation implemented by the Anti-Monopoly Enforcement Authority in accordance with the law, refuses to submit relevant materials or information, submits false materials or information, conceals, destroys or removes evidence, or refuses to be investigated or hinders the

investigation, the Anti-Monopoly Enforcement Authority is authorised to order such individual or entity to cease and desist such act and to impose fines of no more than RMB 20,000 yuan on individuals or fines of no more than RMB 200,000 yuan on entities; in serious circumstances, the Anti-Monopoly Enforcement Authority may impose fines that is between RMB 20,000 yuan and RMB 100,000 yuan on individuals or fines of between RMB 200,000 yuan and RMB 1 million yuan on entities; if the case constitutes a criminal offence, criminal liabilities shall be prosecuted according to law.

Article 53

Any undertaking or interested party that objects to a decision made by the Anti-Monopoly Enforcement Authority in accordance with Article 28 and Article 29 of this law may first apply for an administrative review according to law; and, if object to the decision in the administrative review, may file an administrative suit according to law.

Any undertaking or interested party that objects to a decision made by the Anti-Monopoly Enforcement Authority in accordance with provisions other than the previous provisions may apply for an administrative review or bring an administrative action according to law.

Article 54

Any working staff of the Anti-Monopoly Enforcement Authority who abuses his powers, neglects his duties, bends the law for personal gains, or divulges business secrets obtained in the process of law enforcement, shall be prosecuted for criminal liabilities according to law if the case constitute a criminal offence, or shall be imposed disciplinary sanctions according to law if the case does not constitute a criminal offence.

Chapter VIII Supplementary Provisions

Article 55

This Law is not applicable to undertakings' conduct in exercise of intellectual property rights pursuant to provisions of laws and administrative regulations relating to intellectual property rights; but this Law is applicable to undertakings' conduct that eliminates or restricts competition by abusing their intellectual property rights.

Article 56

This Law is not applicable to the alliance or concerted actions among farmers and farmers' economic organisations in connection with operational activities such as the production, processing, sales, transportation and storage of agricultural products.

Article 57

This Law is effective as of 1 August 2008.

中华人民共和国反垄断法

(2007年8月30日第十届全国人民代表大会常务委员会第二十九次会议通过)

目 录

- 第一章 总则
- 第二章 垄断协议
- 第三章 滥用市场支配地位
- 第四章 经营者集中
- 第五章 滥用行政权力排除、限制竞争
- 第六章 对涉嫌垄断行为的调查
- 第七章 法律责任
- 第八章 附则

第一章 总 则

第一条 为了预防和制止垄断行为，保护市场公平竞争，提高经济运行效率，维护消费者利益和社会公共利益，促进社会主义市场经济健康发展，制定本法。

第二条 中华人民共和国境内经济活动中的垄断行为，适用本法；中华人民共和国境外的垄断行为，对境内市场竞争产生排除、限制影响的，适用本法。

第三条 本法规定的垄断行为包括：

- (一) 经营者达成垄断协议；
- (二) 经营者滥用市场支配地位；
- (三) 具有或者可能具有排除、限制竞争效果的经营者集中。

第四条 国家制定和实施与社会主义市场经济相适应的竞争规则，完善宏观调控，健全统一、开放、竞争、有序的市场体系。

第五条 经营者可以通过公平竞争、自愿联合，依法实施集中，扩大经营规模，提高市场竞争能力。

第六条 具有市场支配地位的经营者，不得滥用市场支配地位，排除、限制竞争。

第七条 国有经济占控制地位的关系国民经济命脉和国家安全的行业以及依法实行专营专卖的行业，国家对其经营者的合法经营活动予以保护，并对经营者的经营行为及其商品和服务的价格依法实施监管和调控，维护消费者利益，促进技术进步。

前款规定行业的经营者应当依法经营，诚实守信，严格自律，接受社会公众的监督，不得利用其控制地位或者专营专卖地位损害消费者利益。

第八条 行政机关和法律、法规授权的具有管理公共事务职能的组织不得滥用行政权力，排除、限制竞争。

第九条 国务院设立反垄断委员会，负责组织、协调、指导反垄断工作，履行下列职责：

- （一）研究拟订有关竞争政策；
- （二）组织调查、评估市场总体竞争状况，发布评估报告；
- （三）制定、发布反垄断指南；
- （四）协调反垄断行政执法工作；
- （五）国务院规定的其他职责。

国务院反垄断委员会的组成和工作规则由国务院规定。

第十条 国务院规定的承担反垄断执法职责的机构（以下统称国务院反垄断执法机构）依照本法规定，负责反垄断执法工作。

国务院反垄断执法机构根据工作需要，可以授权省、自治区、直辖市人民政府相应的机构，依照本法规定负责有关反垄断执法工作。

第十一条 行业协会应当加强行业自律，引导本行业的经营者依法竞争，维护市场竞争秩序。

第十二条 本法所称经营者，是指从事商品生产、经营或者提供服务的自然人、法人和其他组织。

本法所称相关市场，是指经营者在一定时期内就特定商品或者服务（以下统称商品）进行竞争的商品范围和地域范围。

第二章 垄断协议

第十三条 禁止具有竞争关系的经营者达成下列垄断协议：

- （一）固定或者变更商品价格；

- (二) 限制商品的生产数量或者销售数量;
- (三) 分割销售市场或者原材料采购市场;
- (四) 限制购买新技术、新设备或者限制开发新技术、新产品;
- (五) 联合抵制交易;
- (六) 国务院反垄断执法机构认定的其他垄断协议。

本法所称垄断协议，是指排除、限制竞争的协议、决定或者其他协同行为。

第十四条 禁止经营者与交易相对人达成下列垄断协议：

- (一) 固定向第三人转售商品的价格；
- (二) 限定向第三人转售商品的最低价格；
- (三) 国务院反垄断执法机构认定的其他垄断协议。

第十五条 经营者能够证明所达成的协议属于下列情形之一的，不适用本法第十三条、第十四条的规定：

- (一) 为改进技术、研究开发新产品的；
- (二) 为提高产品质量、降低成本、增进效率，统一产品规格、标准或者实行专业化分工的；
- (三) 为提高中小经营者经营效率，增强中小经营者竞争力的；
- (四) 为实现节约能源、保护环境、救灾救助等社会公共利益的；
- (五) 因经济不景气，为缓解销售量严重下降或者生产明显过剩的；
- (六) 为保障对外贸易和对外经济合作中的正当利益的；
- (七) 法律和国务院规定的其他情形。

属于前款第一项至第五项情形，不适用本法第十三条、第十四条规定的，经营者还应当证明所达成的协议不会严重限制相关市场的竞争，并且能够使消费者分享由此产生的利益。

第十六条 行业协会不得组织本行业的经营者从事本章禁止的垄断行为。

第三章 滥用市场支配地位

第十七条 禁止具有市场支配地位的经营者从事下列滥用市场支配地位的行为：

- (一) 以不公平的高价销售商品或者以不公平的低价购买商品；
- (二) 没有正当理由，以低于成本的价格销售商品；
- (三) 没有正当理由，拒绝与交易相对人进行交易；

(四) 没有正当理由，限定交易相对人只能与其进行交易或者只能与其指定的经营者进行交易；

(五) 没有正当理由搭售商品，或者在交易时附加其他不合理的交易条件；

(六) 没有正当理由，对条件相同的交易相对人在交易价格等交易条件上实行差别待遇；

(七) 国务院反垄断执法机构认定的其他滥用市场支配地位的行为。

本法所称市场支配地位，是指经营者在相关市场内具有能够控制商品价格、数量或者其他交易条件，或者能够阻碍、影响其他经营者进入相关市场能力的市场地位。

第十八条 认定经营者具有市场支配地位，应当依据下列因素：

(一) 该经营者在相关市场的市场份额，以及相关市场的竞争状况；

(二) 该经营者控制销售市场或者原材料采购市场的能力；

(三) 该经营者的财力和技术条件；

(四) 其他经营者对该经营者在交易上的依赖程度；

(五) 其他经营者进入相关市场的难易程度；

(六) 与认定该经营者市场支配地位有关的其他因素。

第十九条 有下列情形之一的，可以推定经营者具有市场支配地位：

(一) 一个经营者在相关市场的市场份额达到二分之一的；

(二) 两个经营者在相关市场的市场份额合计达到三分之二的；

(三) 三个经营者在相关市场的市场份额合计达到四分之三的。

有前款第二项、第三项规定的情形，其中有的经营者市场份额不足十分之一的，不应当推定该经营者具有市场支配地位。

被推定具有市场支配地位的经营者，有证据证明不具有市场支配地位的，不应当认定其具有市场支配地位。

第四章 经营者集中

第二十条 经营者集中是指下列情形：

(一) 经营者合并；

(二) 经营者通过取得股权或者资产的方式取得对其他经营者的控制权；

(三) 经营者通过合同等方式取得对其他经营者的控制权或者能够对其他经

营者施加决定性影响。

第二十一条 经营者集中达到国务院规定的申报标准的，经营者应当事先向国务院反垄断执法机构申报，未申报的不得实施集中。

第二十二条 经营者集中有下列情形之一的，可以不向国务院反垄断执法机构申报：

（一）参与集中的一个经营者拥有其他每个经营者百分之五十以上有表决权的股份或者资产的；

（二）参与集中的每个经营者百分之五十以上有表决权的股份或者资产被同一个未参与集中的经营者拥有的。

第二十三条 经营者向国务院反垄断执法机构申报集中，应当提交下列文件、资料：

（一）申报书；

（二）集中对相关市场竞争状况影响的说明；

（三）集中协议；

（四）参与集中的经营者经会计师事务所审计的上一会计年度财务会计报告；

（五）国务院反垄断执法机构规定的其他文件、资料。

申报书应当载明参与集中的经营者的名称、住所、经营范围、预定实施集中的日期和国务院反垄断执法机构规定的其他事项。

第二十四条 经营者提交的文件、资料不完备的，应当在国务院反垄断执法机构规定的期限内补交文件、资料。经营者逾期未补交文件、资料的，视为未申报。

第二十五条 国务院反垄断执法机构应当自收到经营者提交的符合本法第二十三条规定的文件、资料之日起三十日内，对申报的经营者集中进行初步审查，作出是否实施进一步审查的决定，并书面通知经营者。国务院反垄断执法机构作出决定前，经营者不得实施集中。

国务院反垄断执法机构作出不实施进一步审查的决定或者逾期未作出决定的，经营者可以实施集中。

第二十六条 国务院反垄断执法机构决定实施进一步审查的，应当自决定之日起九十日内审查完毕，作出是否禁止经营者集中的决定，并书面通知经营者。作出

禁止经营者集中的决定，应当说明理由。审查期间，经营者不得实施集中。

有下列情形之一的，国务院反垄断执法机构经书面通知经营者，可以延长前款规定的审查期限，但最长不得超过六十日：

- （一）经营者同意延长审查期限的；
- （二）经营者提交的文件、资料不准确，需要进一步核实的；
- （三）经营者申报后有关情况发生重大变化的。

国务院反垄断执法机构逾期未作出决定的，经营者可以实施集中。

第二十七条 审查经营者集中，应当考虑下列因素：

- （一）参与集中的经营者在相关市场的市场份额及其对市场的控制力；
- （二）相关市场的市场集中度；
- （三）经营者集中对市场进入、技术进步的影响；
- （四）经营者集中对消费者和其他有关经营者的影响；
- （五）经营者集中对国民经济发展的影响；
- （六）国务院反垄断执法机构认为应当考虑的影响市场竞争的其他因素。

第二十八条 经营者集中具有或者可能具有排除、限制竞争效果的，国务院反垄断执法机构应当作出禁止经营者集中的决定。但是，经营者能够证明该集中对竞争产生的有利影响明显大于不利影响，或者符合社会公共利益的，国务院反垄断执法机构可以作出对经营者集中不予禁止的决定。

第二十九条 对不予禁止的经营者集中，国务院反垄断执法机构可以决定附加减少集中对竞争产生不利影响的限制性条件。

第三十条 国务院反垄断执法机构应当将禁止经营者集中的决定或者对经营者集中附加限制性条件的决定，及时向社会公布。

第三十一条 对外资并购境内企业或者以其他方式参与经营者集中，涉及国家安全的，除依照本法规定进行经营者集中审查外，还应当按照国家有关规定进行国家安全审查。

第五章 滥用行政权力排除、限制竞争

第三十二条 行政机关和法律、法规授权的具有管理公共事务职能的组织不得滥用行政权力，限定或者变相限定单位或者个人经营、购买、使用其指定的经营者提供的商品。

第三十三条 行政机关和法律、法规授权的具有管理公共事务职能的组织不得滥用行政权力，实施下列行为，妨碍商品在地区之间的自由流通：

（一）对外地商品设定歧视性收费项目、实行歧视性收费标准，或者规定歧视性价格；

（二）对外地商品规定与本地同类商品不同的技术要求、检验标准，或者对外地商品采取重复检验、重复认证等歧视性技术措施，限制外地商品进入本地市场；

（三）采取专门针对外地商品的行政许可，限制外地商品进入本地市场；

（四）设置关卡或者采取其他手段，阻碍外地商品进入或者本地商品运出；

（五）妨碍商品在地区之间自由流通的其他行为。

第三十四条 行政机关和法律、法规授权的具有管理公共事务职能的组织不得滥用行政权力，以设定歧视性资质要求、评审标准或者不依法发布信息等方式，排斥或者限制外地经营者参加本地的招标投标活动。

第三十五条 行政机关和法律、法规授权的具有管理公共事务职能的组织不得滥用行政权力，采取与本地经营者不平等待遇等方式，排斥或者限制外地经营者在本地投资或者设立分支机构。

第三十六条 行政机关和法律、法规授权的具有管理公共事务职能的组织不得滥用行政权力，强制经营者从事本法规定的垄断行为。

第三十七条 行政机关不得滥用行政权力，制定含有排除、限制竞争内容的规定。

第六章 对涉嫌垄断行为的调查

第三十八条 反垄断执法机构依法对涉嫌垄断行为进行调查。

对涉嫌垄断行为，任何单位和个人有权向反垄断执法机构举报。反垄断执法机构应当为举报人保密。

举报采用书面形式并提供相关事实和证据的，反垄断执法机构应当进行必要的调查。

第三十九条 反垄断执法机构调查涉嫌垄断行为，可以采取下列措施：

（一）进入被调查的经营者的营业场所或者其他有关场所进行检查；

（二）询问被调查的经营者、利害关系人或者其他有关单位或者个人，要求其说明有关情况；

(三) 查阅、复制被调查的经营者、利害关系人或者其他有关单位或者个人的有关单证、协议、会计账簿、业务函电、电子数据等文件、资料；

(四) 查封、扣押相关证据；

(五) 查询经营者的银行账户。

采取前款规定的措施，应当向反垄断执法机构主要负责人书面报告，并经批准。

第四十条 反垄断执法机构调查涉嫌垄断行为，执法人员不得少于二人，并应当出示执法证件。

执法人员进行询问和调查，应当制作笔录，并由被询问人或者被调查人签字。

第四十一条 反垄断执法机构及其工作人员对执法过程中知悉的商业秘密负有保密义务。

第四十二条 被调查的经营者、利害关系人或者其他有关单位或者个人应当配合反垄断执法机构依法履行职责，不得拒绝、阻碍反垄断执法机构的调查。

第四十三条 被调查的经营者、利害关系人有权陈述意见。反垄断执法机构应当对被调查的经营者、利害关系人提出的事实、理由和证据进行核实。

第四十四条 反垄断执法机构对涉嫌垄断行为调查核实后，认为构成垄断行为的，应当依法作出处理决定，并可以向社会公布。

第四十五条 对反垄断执法机构调查的涉嫌垄断行为，被调查的经营者承诺在反垄断执法机构认可的期限内采取具体措施消除该行为后果的，反垄断执法机构可以决定中止调查。中止调查的决定应当载明被调查的经营者承诺的具体内容。

反垄断执法机构决定中止调查的，应当对经营者履行承诺的情况进行监督。经营者履行承诺的，反垄断执法机构可以决定终止调查。

有下列情形之一的，反垄断执法机构应当恢复调查：

- (一) 经营者未履行承诺的；
- (二) 作出中止调查决定所依据的事实发生重大变化的；
- (三) 中止调查的决定是基于经营者提供的不完整或者不真实的信息作出的。

第七章 法律责任

第四十六条 经营者违反本法规定，达成并实施垄断协议的，由反垄断执法机构

责令停止违法行为，没收违法所得，并处上一年度销售额百分之一以上百分之十以下的罚款；尚未实施所达成的垄断协议的，可以处五十万元以下的罚款。

经营者主动向反垄断执法机构报告达成垄断协议的有关情况并提供重要证据的，反垄断执法机构可以酌情减轻或者免除对该经营者的处罚。

行业协会违反本法规定，组织本行业的经营者达成垄断协议的，反垄断执法机构可以处五十万元以下的罚款；情节严重的，社会团体登记管理机关可以依法撤销登记。

第四十七条 经营者违反本法规定，滥用市场支配地位的，由反垄断执法机构责令停止违法行为，没收违法所得，并处上一年度销售额百分之一以上百分之十以下的罚款。

第四十八条 经营者违反本法规定实施集中的，由国务院反垄断执法机构责令停止实施集中、限期处分股份或者资产、限期转让营业以及采取其他必要措施恢复到集中前的状态，可以处五十万元以下的罚款。

第四十九条 对本法第四十六条、第四十七条、第四十八条规定的罚款，反垄断执法机构确定具体罚款数额时，应当考虑违法行为的性质、程度和持续的时间等因素。

第五十条 经营者实施垄断行为，给他人造成损失的，依法承担民事责任。

第五十一条 行政机关和法律、法规授权的具有管理公共事务职能的组织滥用行政权力，实施排除、限制竞争行为的，由上级机关责令改正；对直接负责的主管人员和其他直接责任人员依法给予处分。反垄断执法机构可以向有关上级机关提出依法处理的建议。

法律、行政法规对行政机关和法律、法规授权的具有管理公共事务职能的组织滥用行政权力实施排除、限制竞争行为的处理另有规定的，依照其规定。

第五十二条 对反垄断执法机构依法实施的审查和调查，拒绝提供有关材料、信息，或者提供虚假材料、信息，或者隐匿、销毁、转移证据，或者有其他拒绝、阻碍调查行为的，由反垄断执法机构责令改正，对个人可以处二万元以下的罚款，对单位可以处二十万元以下的罚款；情节严重的，对个人处二万元以上十万元以下的罚款，对单位处二十万元以上一百万元以下的罚款；构成犯罪的，依法追究刑事责任。

第五十三条 对反垄断执法机构依据本法第二十八条、第二十九条作出的决定不服的，可以先依法申请行政复议；对行政复议决定不服的，可以依法提起行政诉讼。

对反垄断执法机构作出的前款规定以外的决定不服的，可以依法申请行政复议或者提起行政诉讼。

第五十四条 反垄断执法机构工作人员滥用职权、玩忽职守、徇私舞弊或者泄露执法过程中知悉的商业秘密，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予处分。

第八章 附则

第五十五条 经营者依照有关知识产权的法律、行政法规规定行使知识产权的行为，不适用本法；但是，经营者滥用知识产权，排除、限制竞争的行为，适用本法。

第五十六条 农业生产者及农村经济组织在农产品生产、加工、销售、运输、储存等经营活动中实施的联合或者协同行为，不适用本法。

第五十七条 本法自 2008 年 8 月 1 日起施行。

***Guiding Catalogue for Some Industries to Eliminate Backward Production
Processes and Equipment and Products (2010 version)***

I. Steel

1. Sintering machine below 30 square meters
2. Sintering machine below 30 square meters (2013)
3. Pellet vertical furnace below 8 square meters
4. The belt type sintering machine of chrome ore or manganese ore of 24 square meters or below
5. Ring sintering machine
6. Soil sinter process
7. Hot sinter process
8. Ironmaking blast furnace of 300 square meters or below
9. Ironmaking blast furnace more than 300 square meters and less than 400 square meters
10. Professional cast iron pipe factory blast furnace of 200 square meters or below
11. Ferromanganese blast furnace
12. Power frequency and medium frequency induction furnace used for producing plain carbon steel; plain carbon steel manufactured by power frequency and medium frequency induction furnace or other steel products made by power frequency and medium frequency induction furnace.
13. Steel-making converter of 20 tons or below
14. Steel-making converter more than 20 tons but no more than 30 tons (2011)
15. Steel-making electric furnace of 9000 KVA or below (nominal capacity of 20 tons or below)
16. Steel-making electric furnace more than 9000 KVA but no more than 15000 KVA (nominal capacity more than 20 tons but no more than 30 tons) (2011)
17. High alloy steel furnace of 5000 KVA or below (nominal capacity no more than 10 tons)

18. Double duo wire mill
19. Pack rolling sheet mill
20. Cross compound bar and section mill
21. Blooming mill of plain steel and medium section mill use for cogging
22. Rolling mill for Hot-rolled narrow strip (600 mm or below)
23. Three roll always type of plate mill
24. Unit of hot-rolled seamless pipe that the diameter is under 76 mm
25. Three roller cross compound type wire mill (excludes produced by special steel)
26. Single tank wire drawing machine use for producing prestressed wires
27. Lead quenching process processed by relieving stress use for producing prestressed steel
28. Metallurgical furnaces that is not eligible for environmental protection
29. Heap coking (including heap the Improved coke oven); the capacity for single furnace is no more than 50,000 tons per year, or the production unit of semi coke that cannot meet the admittance Conditions in the respect of tar recycling and sewage treatment.
30. Production unit of semi coke which the capacity for single furnace is no more than 75,000 tons per year (2012)
31. Heat recovery coke oven which cannot meet the admittance Conditions for coking industry (2012)
32. Conventional machine coke oven which the height of coking chamber is below 4.3 meters (3.8 meters for coking tamping coke oven) (The height of tamping coke oven is 3.2 meters in western regions or manufacturers of gas in the cities, 2012)
33. Pickling distillation benzene processing technology and device which the capacity for single set is 25,000 tons or below (2012)
34. Pickling distillation benzene processing technology and device (2015)
35. Coal tar processing device of single set of processing anhydrous coal tar 50000 tons per year or below(2012)

36. Manual operation of the soil asphalt tar impregnating device, ore materials and solid materials mixed burn, natural ventilation and manual soil vertical kiln, the down-draft kiln uses coal as the fuel, which cannot meet the standard of smoke purification
37. Ferroalloy -arc furnace of 6,000 KVA or below
38. Ferroalloy -arc furnace of 6,300 KVA (2012) (uses the small hydro independently operated by national poverty-stricken counties, 2014)
39. Ferroalloy semi-enclosed dc furnace and refining furnace of 3,000 KVA or below
40. Ferroalloy calcium silicon furnace and calcium silicon barium alloy furnace of 1,500 KVA or below
41. Ferroalloy calcium silicon furnace and calcium silicon barium alloy furnace of 5,000 KVA or below (2013)
42. titanium iron melting furnace which the production is 5 tons or below, molybdenum iron production line using reverberatory furnace roasting of molybdenum concentrate and the production line of metal chromium using reverberatory furnace reduction, calcining sodium bichromate and chromic anhydride
43. Reverberatory furnace use for reducing manganese dioxide mine (including the reverberatory furnace used by manganese sulfate factory, the reverberatory furnace used by mineral powder factory.
44. Plate-and-frame filter press or chamber filter press excluding High pressure diaphragm filter press used for one filter of electrolytic manganese
45. **Rectifier** of no more than 5,000 KVA and combined tank of no more than 150 steres that used for electrolytic manganese (2011)
46. **Rectifier** of more than 5000 KVA but no more than 6,000 KVA and combined tank more than 150 steres but no more than 170 steres that used for electrolytic manganese (2014)

47. Steam heating kneading, pour flame type roasting furnace, Acheson communication graphitization furnace, three phase bridge rectifier acheson dc graphitization furnace and its parallel unit of 100,00 KVA and below.
48. Light burned reverberatory kiln of the effective volume of 18 steres or below.
49. Heavy burned magnesia shaft kiln of the effective volume of 30 steres or below.
50. Hot rolled silicon steel sheet
51. twisted steel product of Grade I
52. twisted steel product of Grade II (eliminated in accordance with the standard of steel use for construction industry
53. Hollow steel window section of 25A
54. Conventional relaxation level of steel wire, steel wires

II. Nonferrous Metals

Omitted.

III. Chemical Industry

Omitted.

IV. Building Material

Omitted.

V. Machinery

Omitted.

VI. Light Manufacturing

Omitted.

VII. Textile

Omitted.

VIII. Medicine

Omitted.

Note: The specific year within the brackets behind the items is the time limit for elimination. For example, “2010” means it shall be eliminated no later than the end of 2010, similarly for the other years. The items which have a specific elimination plan shall be eliminated in accordance with the plan; the items which do not have a specific time limit or elimination plan shall be eliminated immediately.

部分工业行业淘汰落后生产工艺装备和产品 指导目录（2010 年本）

一、 钢铁

1. 30 平方米以下烧结机
2. 90 平方米以下烧结机（2013 年）
3. 8 平方米以下球团竖炉
4. 24 平方米及以下铬矿、锰矿带式烧结机
5. 环形烧结机
6. 土烧结矿工艺
7. 热烧结矿工艺
8. 300 立方米及以下的炼铁高炉
9. 300 立方米以上、400 立方米及以下的炼铁高炉
（2011 年）
10. 200 立方米及以下的专业铸铁管厂高炉
11. 100 立方米及以下的锰铁高炉
12. 生产地条钢、普碳钢的工频和中频感应炉（机械铸造用钢锭除外）；工频和中频感应炉等生产的地条钢、普碳钢及其为原料生产的钢材产品
13. 20 吨及以下炼钢转炉
14. 20 吨以上、30 吨及以下炼钢转炉（2011 年）
15. 9000 千伏安及以下（公称容量 20 吨及以下）炼钢电炉
16. 9000 千伏安以上、15000 千伏安及以下（公称容量 20 吨以上、30 吨及以下）炼钢电炉（2011 年）

17. 5000 千伏安及以下（公称容量 10 吨及以下）高合金钢电炉
18. 复二重线材轧机
19. 叠轧薄板轧机
20. 横列式棒材及型材轧机
21. 普钢初轧机及开坯用中型轧机
22. 热轧窄带钢（600 毫米及以下）轧机
23. 三辊劳特式中板轧机
24. 直径 76 毫米以下热轧无缝管机组
25. 三辊横列式型线材轧机（不含特殊钢生产）
26. 生产预应力钢丝的单罐拉丝机
27. 预应力钢材生产消除应力处理的铅淬火工艺
28. 环保不达标的冶金炉窑
29. 土法炼焦（含改良焦炉）；单炉产能 5 万吨/年以下或无煤气、焦油回收利用和污水处理达不到准入条件要求的半焦（兰炭）生产装置
30. 单炉产能 7.5 万吨/年以下的半焦（兰炭）生产装置（2012 年）
31. 未达到焦化行业准入条件要求的热回收焦炉（2012 年）
32. 炭化室高度 4.3 米（捣固焦炉 3.8 米）以下常规机焦炉（西部地区或城市汽源生产企业的炭化室高度 3.2 米捣固焦炉，2012 年）
33. 单套加工能力 2.5 万吨/年及以下的酸洗蒸馏法苯加工工艺和装置（2012 年）
34. 酸洗蒸馏法苯加工工艺和装置（2015 年）
35. 单套处理无水煤焦油 5 万吨/年及以下的煤焦油加工装置（2012 年）
36. 手工操作的土沥青焦油浸渍装置，矿石原料与固体原料混烧、自然通风、手工操作的土竖窑，以煤为燃料、烟尘净化不能达标的倒焰窑
37. 6300 千伏安以下铁合金矿热电炉

38. 6300 千伏安铁合金矿热电炉 (2012 年) (国家级贫困县、利用独立运行的小水电 2014 年)
39. 3000 千伏安以下铁合金半封闭直流电炉和精炼电炉
40. 1500 千伏安以下铁合金硅钙合金电炉和硅钙钡铝合金电炉
41. 5000 千伏安以下铁合金硅钙合金电炉和硅钙钡铝合金电炉 (2013 年)
42. 单产 5 吨/炉以下的钛铁熔炼炉、用反射炉焙烧钼精矿的钼铁生产线及用反射炉还原、煅烧红矾钠、铬酐生产金属铬的生产线
43. 还原二氧化锰矿用反射炉 (包括硫酸锰厂用反射炉、矿粉厂用反射炉等)
44. 电解金属锰一次压滤用除高压隔膜压滤机以外的板框、箱式压滤机
45. 电解金属锰用 5000 千伏安及以下的整流变压器、150 立方米及以下的化合槽 (2011 年)
46. 电解金属锰用 5000 千伏安以上、6000 千伏安及以下的整流变压器; 150 立方米以上、170 立方米及以下的化合槽 (2014 年)
47. 蒸汽加热混捏、倒焰式焙烧炉、艾奇逊交流石墨化炉、10000 千伏安及以下三相桥式整流艾奇逊直流石墨化炉及其并联机组
48. 有效容积 18 立方米及以下轻烧反射窑
49. 有效容积 30 立方米及以下重烧镁砂竖窑
50. 热轧硅钢片
51. I 级螺纹钢筋产品
52. II 级螺纹钢筋产品 (按建筑行业用钢标准和建筑规范要求淘汰)
53. 25A 空腹钢窗料
54. 普通松弛级别的钢丝、钢绞线

二、有色金属

1. 烟气制酸干法净化和热浓酸洗涤工艺
2. “二人转”式有色金属轧机
3. 密闭鼓风炉、电炉、反射炉炼铜工艺及设备
4. 电解铝自焙槽
5. 80 千安及以下电解铝预焙槽
6. 80 千安以上、100 千安及以下电解铝预焙槽（2011 年）
7. 采用烧结锅、烧结盘、简易高炉等落后方式炼铅工艺及设备
8. 未配套制酸及尾气吸收系统的烧结机炼铅工艺
9. 烧结一鼓风炉炼铅工艺（2012 年）
10. 采用马弗炉、马槽炉、横罐、小竖罐（单日单罐产量 8 吨以下）等进行焙烧、简易冷凝设施进行收尘等落后方式炼锌或生产氧化锌制品
11. 采用地坑炉、坩埚炉、赫氏炉等落后方式炼铋
12. 采用铁锅和土灶、蒸馏罐、坩埚炉及简易冷凝收尘设施等落后方式炼汞
13. 采用土坑炉或坩埚炉焙烧、简易冷凝设施收尘等落后方式炼制氧化砷或金属砷制品
14. 无烟气治理措施的再生铜焚烧工艺及设备
15. 坩埚炉再生铝合金、再生铅生产工艺及设备（2011 年）
16. 直接燃煤反射炉再生铝、再生铅、再生铜生产工艺及设备（2011 年）
17. 50 吨以下传统固定式反射炉再生铜生产工艺及设备（2012 年）
18. 4 吨以下反射炉再生铝生产工艺及设备（2011 年）
19. 独居石等具有放射性的稀土单一矿种开发生产设

施

20. 离子型稀土原矿堆浸、池浸工艺
21. 氨皂化稀土冶炼分离工艺
22. 湿法生产电解用氟化稀土生产工艺
23. 稀土氯化物电解制备金属工艺
24. 规模低于 1500 吨/年，电流效率低于 85%的稀土金属冶炼生产工艺设备（重稀土金属冶炼装置除外）
25. 规模低于 2000 吨（REO）/年的混合型稀土矿冶炼分离生产设施（2013 年）
26. 规模低于 2000 吨（REO）/年的氟碳铈矿冶炼分离生产设施（2013 年）
27. 规模低于 1500 吨（REO）/年的离子型稀土矿冶炼分离生产设施（2013 年）
28. 混汞提金工艺
29. 小氰化池浸工艺、小冶炼提金工艺
30. 处理砂金矿砂 20 万立方米/年以下的砂金开采生产设施
31. 处理矿石规模 50 吨/日以下的金矿采选生产设施
32. 无环保措施的提取线路板中金、银、钯等贵金属的简易酸浸工艺
33. 有色金属矿物选矿使用重铬酸盐或氰化物等剧毒药剂的分离工艺
34. 高杂质含量、高氧含量铜线杆（黑杆）
35. 辉钼矿和镍钼矿反射炉焙烧工艺

三、化工

1. 10 万吨/年以下的硫铁矿制酸和硫磺制酸生产装置（边远地区除外）
2. 50 万条/年及以下的斜交轮胎生产线，以天然棉帘子布为骨架的轮胎生产线
3. 1.5 万吨/年及以下的干法造粒炭黑生产装置（特种

炭黑和半补强炭黑除外)

4. 单台磷炉变压器容量 10000 千伏安以下黄磷生产装置(变压器容量 7200 千伏安及以上、10000 千伏安以下尾气和炉渣能够全部综合利用的除外)(2010 年)

5. 有钙焙烧铬化合物生产工艺(2013 年)

6. 单线产能 1 万吨/年以下三聚磷酸钠、0.5 万吨/年以下六偏磷酸钠、0.5 万吨/年以下三氯化磷、3 万吨/年以下饲料磷酸氢钙

7. 1 万吨以下无水氟化氢(HF)产品达不到 GB7746、5000 吨/年以下氢氟酸产品达不到 GB7744 生产装置(综合利用项目以及 4N 以上电子级除外)、5000 吨/年以下湿法氟化铝(综合利用除外)及敞开式结晶氟盐生产装置

8. 汞法烧碱、石墨阳极隔膜法烧碱、未采用节能措施(扩张阳极、改性隔膜等)的普通金属阳极隔膜法烧碱生产装置

9. 电石渣采用堆存处理的 5 万吨/年以下的电石法聚氯乙烯生产装置

10. 开放式电石炉

11. 单台炉变压器容量小于 12500 千伏安的电石炉(2010 年)

12. 生产氰化钠的氨钠法及氰熔体工艺

13. 钠法百草枯生产工艺

14. 农药产品手工包(灌)装工艺及设备(2010 年)

15. 非封闭生产三氯杀螨醇工艺

16. 100 吨/年以下皂素(含水解物)生产装置

17. 盐酸酸解法皂素生产工艺及污染物排放不能达标的皂素生产装置

18. 皂素酸法水解生产工艺

19. KDON-6000/6600 型蓄冷器流程空分设备

20. 用火直接加热的涂料用树脂生产工艺

21. 四氯化碳(CTC)以及所有使用四氯化碳为加工助剂的产品的生产工艺装置(根据国家履行国际公约总体计划

要求淘汰)

22. CFC-113 为加工助剂的含氟聚合物的生产工艺装置 (根据国家履行国际公约总体计划要求淘汰)

23. 氯氟烃 (CFCs)、用于清洗的 1, 1, 1-三氯乙烷 (甲基氯仿) 的生产工艺装置 (根据国家履行国际公约总体计划要求淘汰)

24. 以六氯苯为原料生产五氯酚 (钠) 工艺 (根据国家履行国际公约总体计划要求淘汰)

25. 甲基溴生产装置 (2010 年)

26. 半水煤气氨水液相脱硫工艺技术

27. 一氧化碳常压变换及全中温变换 (高温变换) 工艺

28. 废旧橡胶土法炼油工艺

29. 橡胶硫化促进剂 N-氧联二 (1, 2-亚乙基)-2-苯并噻唑次磺酰胺 (NOBS) 和橡胶防老剂 D 装置 (2010 年)

30. 2 万吨/年以下普通级碳酸钡生产装置 (2011 年)

31. 3000 吨/年以下普通级硫酸钡、氢氧化钡、氯化钡、硝酸钡生产装置 (2011 年)

32. 1.5 万吨/年以下普通级碳酸锶生产装置 (2011 年)

33. 农药粉剂雷蒙机法生产工艺

34. 5000 吨/年以下湿法氟化铝生产装置 (副产综合利用除外)

35. 四氯化碳溶剂法制取氯化橡胶生产工艺

36. 平炉法高锰酸钾生产工艺

37. 平炉法和大锅蒸发法硫化碱生产工艺

38. 芒硝法硅酸钠 (泡化碱) 生产工艺

39. 铁粉还原法工艺 (4, 4'-二氨基二苯乙烯-二磺酸 [DSD 酸]、2-氨基-4-甲基-5-氯苯磺酸 [CLT 酸]、1-氨基-8-萘酚-3, 6-二磺酸 [H 酸] 产品暂缓淘汰)

40. 年产 3 亿只以下的天然胶乳安全套生产装置

41. 轮胎、自行车胎、摩托车胎手工刻花硫化模具

42. 多氯联苯 (变压器油)

43. 氯化汞催化剂（氯化汞含量 6.5% 以上）（2015 年）
44. 废物不能有效利用或三废排放不达标的钛白粉生产装置
45. 淀粉糖酸法生产工艺
46. 焦油间歇法生产沥青工艺
47. 敌百虫碱减法生产敌敌畏工艺
48. 国家明令禁止生产的农药产品：除草醚、杀虫脒、毒鼠强、氟乙酰胺、氟乙酸钠、二溴氯丙烷、磷胺、甘氟、毒鼠硅、甲胺磷、对硫磷、甲基对硫磷、久效磷、10% 草甘膦水剂
49. 国际公约需要淘汰的农药产品：氯丹、林丹、七氯、毒杀芬、滴滴涕、六氯苯、灭蚁灵、艾氏剂、狄氏剂、异狄氏剂
50. 落后农药产品：治螟磷（苏化 203）、硫环磷（乙基硫环磷）、甲基硫环磷、磷化钙、磷化锌、福美肿、福美甲肿及所有肿制剂
51. 聚乙烯醇及其缩醛类内外墙涂料（106、107 涂料等）
52. 有害物质含量超过《室内装饰装修材料内墙涂料中有害物质限量》（GB18582）标准的内墙涂料
53. 多彩内墙涂料（树脂以硝化纤维素为主，溶剂以二甲苯为主的 O/W 型涂料）
54. 有害物质含量超过《室内装饰装修材料溶剂型木器涂料中有害物质限量》（GB18581）标准的溶剂型木器涂料
55. 氯乙烯-偏氯乙烯共聚乳液外墙涂料
56. 聚醋酸乙烯乳液类（含乙烯/醋酸乙烯酯共聚物乳液）外墙涂料
57. 有害物质含量超过《建筑用外墙涂料中有害物质限量》标准的外墙涂料
58. 焦油型聚氨酯防水涂料

59. 水性聚氯乙烯焦油防水涂料
60. 改性淀粉涂料
61. 含有机锡的防污涂料
62. 含三丁基锡、红丹的涂料
63. 含滴滴涕的涂料
64. 含异氰脲酸三缩水甘油酯 (TGIC) 的粉末涂料
65. 有害物质含量超过《玩具涂料中有害物质限量》标准的玩具涂料
66. 有害物质含量超过《汽车涂料中有害物质限量》标准的汽车涂料
67. 含苯类、苯酚、苯甲醛和二 (三) 氯甲烷的脱漆剂
68. 聚氯乙烯建筑防水接缝材料(焦油型)
69. 分散黄 3、分散蓝 1、直接红 28、直接蓝 6、直接黑 38、碱性红 9、酸性红 26、酸性紫 49、溶剂黄 1 等九种染料, 用于纺织品染色的在还原条件下会裂解产生 24 种有害芳香胺的偶氮染料
70. 高污染、高环境风险染料: C. I. 直接黄 24、C. I. 直接红 1、C. I. 直接红 2、C. I. 直接红 13、C. I. 直接红 28、C. I. 直接紫 1、C. I. 直接紫 12、C. I. 直接绿 1、C. I. 直接绿 6、C. I. 直接绿 85、C. I. 直接蓝 1、C. I. 直接蓝 2、C. I. 直接蓝 6、C. I. 直接蓝 9、C. I. 直接蓝 14、C. I. 直接蓝 15、C. I. 直接蓝 22、C. I. 直接蓝 76、C. I. 直接蓝 151、C. I. 直接蓝 201、C. I. 直接棕 1、C. I. 直接棕 2、C. I. 直接棕 12、C. I. 直接棕 79、C. I. 直接棕 95、C. I. 直接棕 101、C. I. 直接棕 154、C. I. 直接棕 222、C. I. 直接棕 223、C. I. 直接黑 38、C. I. 直接黑 91、C. I. 直接黑 154、C. I. 酸性橙 45、C. I. 酸性红 26、C. I. 酸性红 73、C. I. 酸性红 85、C. I. 酸性红 114、C. I. 酸性红 115、C. I. 酸性红 128、C. I. 酸性红 158、C. I. 酸性紫 12、C. I. 酸性紫 49、C. I. 酸性黑 29、C. I. 酸性黑 94、C. I. 酸性黑 132、C. I. 分散黄 7、C. I. 分散黄 23、C. I. 分散黄 56、C. I. 溶剂红 23、C. I. 溶剂红 24

71. 软边结构自行车胎
72. 以棉帘线为骨架材料的普通输送带和以尼龙帘线为骨架材料的普通 V 带
73. 立德粉
74. 瘦肉精
75. 密闭式包装型乳化炸药基质冷却机
76. 密闭式包装型乳化炸药低温敏化机
77. 小直径手工单头炸药装药机
78. 轴承包覆在药剂中的混药、输送等炸药设备
79. 起爆药干燥工序采用蒸汽烘房干燥的工艺
80. 延期元件（体）制造工序采用手工装药的工艺
81. 雷管装填、装配工序及工序间的传输无可靠防殉爆措施的工艺
82. 导爆管制造工序加药装置无可靠防爆设施的生产线
83. 危险作业场所未实现远程视频监控的工业炸药和工业雷管生产线（2010 年）
84. 危险作业场所未实现远程视频监控的导爆索生产线（2011 年）
85. 采用传统轮碾方式的炸药制药工艺（2011 年）
86. 起爆药生产废水达不到《兵器工业水污染排放标准 火工药剂》（GB14470.2）要求排放的生产工艺（2011 年）
87. 乳化器出药温度大于 130℃的乳化工艺（2013 年）
88. 小直径含水炸药装药效率低于 1200kg/h、小直径粉状炸药装药效率低于 800kg/h 的装药机（2013 年）
89. 有固定操作人员的场所，噪声超过 85 分贝以上的炸药设备（2013 年）
90. 全电阻极差大于 1.5 Ω 的电雷管（钢芯脚线长度 2m）生产技术（2013 年）
91. 装箱产品下线未实现生产数据在线采集、及时传输的生产线（2013 年）

92. 全电阻极差大于 $1.0\ \Omega$ 的电雷管（钢芯脚线长度 2m）生产工艺（2015 年）
93. 工序间无可靠防传爆措施的导爆索生产线（2013 年）
94. 制索工序无药量在线检测、自动联锁保护装置的导爆索生产线（2013 年）
95. 最大不发火电流小于 0.25A 的普通型电雷管生产工艺（2015 年）
96. 雷管装填工序未实现人机隔离的生产工艺（2015 年）
97. 雷管卡口、检查工序间需人工传送产品的生产工艺（2015 年）
98. 火雷管
99. 导火索
100. 铍梯炸药
101. 纸壳雷管（2011 年）

四、建材

1. 平拉工艺平板玻璃生产线(合格法)
2. 窑径 2.2 米及以下水泥机械化立窑
3. 窑径 2.2 米以上、3.0 米以下水泥机械化立窑（2012 年）
4. 水泥干法中空窑（生产高铝水泥除外）
5. 水泥干法中空余热发电窑（2012 年）
6. 水泥湿法窑（主要用于处理污泥、电石渣等除外）
7. 直径 2.2 米及以下的磨机（生产特种水泥的除外）
8. 水泥粉磨站直径 3.0 米以下的球磨机（西部省份的边远地区除外）（2012 年）
9. 无复膜塑编水泥包装袋生产线
10. 年产 70 万平方米以下中低档建筑陶瓷砖、年产 20 万件以下低档卫生陶瓷生产线

11. 年产 400 万平方米及以下纸面石膏板生产线
12. 聚乙烯丙纶类复合防水卷材二次加热复合成型生产工艺
13. 年产 500 万平方米以下改性沥青类防水卷材生产线（2010 年）
14. 年产 500 万平方米以下沥青复合胎柔性防水卷材生产线
15. 年产 100 万卷以下沥青纸胎油毡生产线
16. 建筑卫生陶瓷土窑、倒焰窑、多孔窑、煤烧明焰隧道窑、隔焰隧道窑、匣钵装卫生陶瓷隧道窑
17. 建筑陶瓷砖成型用摩擦压砖机
18. 石灰土立窑
19. 陶土坩埚玻璃纤维拉丝生产工艺与装备
20. 砖瓦 24 门以下轮窑（2010 年）
21. 砖瓦 18 门以下轮窑以及立窑、无顶轮窑、马蹄窑等土窑
22. 普通挤砖机
23. SJ1580-3000 双轴、单轴搅拌机
24. SQP400500-700500 双辊破碎机
25. 1000 型普通切条机
26. 100 吨以下盘转式压砖机
27. 手工制作墙板生产线
28. 简易移动式混凝土砌块成型机、附着式振动成型台
29. 单班年产 1 万立方米以下的混凝土砌块固定式成型机，单班年产 10 万平方米以下的混凝土铺地砖固定式成型机
30. 人工浇筑、非机械成型的石膏（空心）砌块生产工艺
31. 真空加压法和气炼一步法石英玻璃生产工艺装备
32. 6×600 吨六面顶小型压机生产人造金刚石工艺
33. 非蒸压养护加气混凝土生产线，手工切割加气混

凝土生产线

34. 不符合环保、安全生产要求的非金属矿开采，非机械化非金属矿开采
35. 用于制备轻烧氧化镁的土焙烧窑、土煅烧窑
36. 标准煤耗 ≥ 330 公斤/吨、容积 ≤ 18 立方米轻烧菱镁反射炉
37. 非烧结、非蒸压粉煤灰砖
38. 装饰石材矿山硐室爆破开采技术、吊索式大理石土拉锯
39. 使用非耐碱玻纤或非低碱水泥生产的玻纤增强水泥（GRC）空心条板
40. 陶土坩埚拉丝玻璃纤维和制品及其增强塑料(玻璃钢)制品
41. 25A 空腹钢窗
42. S-2 型混凝土轨枕
43. 一次冲洗用水量 9 升以上的便器
44. 角闪石石棉（即蓝石棉）
45. 非机械生产中空玻璃、双层双框各类门窗及单腔结构型的塑料门窗
46. 聚乙烯芯材厚度在 0.5mm 以下的聚乙烯丙纶复合防水卷材；聚氯乙烯防水卷材（S 型）；棉涤玻纤（高碱）网格复合胎基材料
47. 实心粘土砖
48. 湿法模塑成型的混凝土路面砖、路缘石

五、机械

1. 热处理铅浴炉
2. 热处理氯化钡盐浴炉（高温氯化钡盐浴炉，暂缓淘汰）
3. 插入式电极盐浴炉
4. 用重质耐火砖作为炉衬的热处理加热炉

5. 燃煤火焰反射加热炉
6. 重质砖炉衬台车炉
7. 手动燃气锻造炉
8. 燃煤锻造加热炉
9. SX 系列箱式电阻炉
10. 中频发电机感应加热电源
11. 无磁轭 (≥ 0.25 吨) 铝壳无芯中频感应电炉 (2015 年)
12. 无芯工频感应电炉
13. 以焦炭为燃料的有色金属熔炼炉
14. 小吨位 (≤ 3 吨/小时) 铸造冲天炉 (2015 年)
15. 粘土砂干型/芯铸造工艺
16. 铸/锻件酸洗工艺
17. 3000 千伏安以下普通棕刚玉冶炼炉
18. 4000 千伏安以下固定式棕刚玉冶炼炉 (2011 年)
19. 3000 千伏安以下碳化硅冶炼炉
20. 直径 1.98 米水煤气发生炉
21. 含氰电镀工艺 (电镀金、银、铜基合金及予镀铜打底工艺, 暂缓淘汰)
22. 含氰沉锌工艺
23. 以氯氟烃 (CFCs) 作为膨胀剂的烟丝膨胀设备生产线
24. T100、T100A 推土机
25. WP-3 挖掘机
26. KJ1600/1220 单筒提升绞机
27. Q51 汽车起重机
28. QT16、QT20、QT25 井架简易塔式起重机
29. TQ60、TQ80 塔式起重机
30. A571 单梁起重机
31. TD60、TD62、TD72 型固定带式输送机
32. ZP-II、ZP-III 干式喷浆机
33. 0.35 立方米以下的气动抓岩机

34. 矿用钢丝绳冲击式钻机
35. BY-40 石油钻机
36. J31-250 机械压力机
37. 强制驱动式简易电梯
38. C620、CA630 普通车床
39. C616、C618、C630、C640、C650 普通车床（2015年）
40. X920 键槽铣床
41. X52、X62W 320×150 升降台铣床
42. B665、B665A、B665-1 牛头刨床
43. D6165、D6185 电火花成型机床
44. D5540 电脉冲机床
45. 无法安装安全保护装置的冲床
46. Q11-1.6×1600 剪板机
47. J53-400、J53-630、J53-1000 双盘磨擦压力机
48. B 型、BA 型单级单吸悬臂式离心泵系列
49. F 型单级单吸耐腐蚀泵系列
50. DG270-140、DG500-140、DG375-185 锅炉给水泵
51. GC 型低压锅炉给水泵
52. JD 型长轴深井泵
53. 各种容量的固定炉排燃煤锅炉（双层固定炉排锅炉除外）
54. KDON-3200/3200 型蓄冷器全低压流程空分设备
55. KDON-1500/1500 型蓄冷器(管式)全低压流程空分设备
56. KDON-1500/1500 型管板式全低压流程空分设备
57. 3W-0.9/7(环状阀)空气压缩机
58. 1-10/8、1-10/7 型动力用往复式空气压缩机
59. 8-18 系列、9-27 系列高压离心通风机
60. BX1-135、BX2-500 交流弧焊机
61. 电动机驱动旋转直流弧焊机（全系列）
62. 动圈式和抽头式硅整流弧焊机

63. 磁放大器式弧焊机
64. AX1-500、AP-1000 直流弧焊电动发电机
65. JD02、JD03 系列变极、多速三相异步电动机
66. J02、J03 系列小型异步电动机
67. YB 系列（机座号 63—355 毫米，额定电压 660 伏及以下）、YBF 系列（机座号 63—160 毫米，额定电压 380 伏、660 伏或 380/660 伏）、YBK 系列（机座号 100—355 毫米，额定电压 380/660 伏、660/1140 伏）隔爆型三相异步电动机
68. 4146 柴油机
69. E135 二冲程中速柴油机（包括 2、4、6 缸三种机型）
70. TY1100 型单缸立式水冷直喷式柴油机
71. 165 单缸卧式蒸发水冷、预燃室柴油机
72. 低于国 II 排放的车用发动机
73. 以未安装燃油量限制器（简称限油器）的单缸柴油机为动力装置的农用运输车（指生产与销售）
74. 使用单缸柴油机道路车辆（2020 年起）
75. 燃油助力车
76. 3 吨直流架线式井下矿用电机车
77. 单壳油船
78. 船长大于 80 米的船舶整体建造工艺（2011 年）
79. 机动车制动用含石棉材料的摩擦片
80. 位式交流解除器温度控制柜
81. 热电偶（分度号 LL-2、LB-3、EU-2、EA-2、CK）
82. 热电阻（分度号 BA、BA2、G）
83. DDZ-I 型电动单元组合仪表
84. GGP-01A 型皮带秤
85. BLR-31 型称重传感器
86. WFT-081 辐射感温器
87. CER 膜盒系列
88. WDH-1E、WDH-2E 光电温度计
89. BC 系列单波纹管差压计

90. LCH-511、YCH-211、LCH-311、YCH-311、LCH-211、YCH-511 型环称式差压计
91. EWC-01A 型长图电子电位差计
92. PY5 型数字温度计
93. XQWA 型条形自动平衡指示仪
94. ZL3 型 X-Y 记录仪
95. DBU-521, DBU-521C 型液位变送器
96. 快速断路器: DS3-10、DS3-30、DS3-50 (1000、3000、5000A)、DS10-10、DS10-20、DS10-30 (1000、2000、3000A)
97. DZ10 系列塑壳断路器
98. DW10 系列框架断路器
99. CJ8 系列交流接触器
100. QC10、QC12、QC8 系列起动机
101. JR0、JR9、JR14、JR15、JR16-A、B、C、D 系列热继电器
102. 含汞开关和继电器
103. 单相电度表: DD1、DD5、DD5-2、DD5-6、DD9、DD10、DD12、DD14、DD15、DD17、DD20、DD28
104. SL7-30/10~SL7-1600/10、S7-30/10~S7-1600/10 配电变压器
105. 刀开关: HD6、HD3-100、HD3-200、HD3-400、HD3-600、HD3-1000、HD3-1500
106. 热动力式疏水阀: S15H-16、S19-16、S19-16C、S49H-16、S49-16C、S19H-40、S49H-40、S19H-64、S49H-64
107. 废旧船舶滩涂拆解工艺

六、轻工

1. 北方海盐年产 30 万吨、湖盐年产 20 万吨以下的生产设施; 真空制盐单套生产能力年产 10 万吨及以下的生产设备

2. 利用矿盐卤水、油气田水且采用平锅制盐生产设备
3. 2万吨/年及以下的南方海盐生产设施
4. 年加工生皮能力5万标张牛皮以下的生产线
5. 年加工蓝湿皮能力3万标张牛皮以下的生产线
6. 300吨/年以下的油墨生产总装置（利用高新技术、无污染的除外）
 7. 含苯类溶剂型油墨生产
 8. 用于凹版印刷的苯胺油墨
 9. 单条年生产能力3.4万吨以下的非木浆生产线
 10. 年生产能力5.1万吨以下的化学木浆生产线
 11. 单条年生产能力1万吨及以下以废纸为原料的制浆生产线
 12. 幅宽在1.76米及以下并且车速为120米/分以下的文化纸生产线
 13. 幅宽在2米及以下并且车速为80米/分以下的白板纸、箱板纸及瓦楞纸生产线
 14. 石灰法地池制浆设备
 15. 以氯氟烃（CFCs）为制冷剂和发泡剂的冰箱、冰柜、汽车空调器、工业商业用冷藏、制冷设备生产线
 16. 四氯化碳（CTC）为清洗剂的生产工艺（根据国家履行国际公约总体计划要求进行淘汰）
 17. CFC-113为清洗剂的生产工艺
 18. 甲基氯仿（TCA）为清洗剂的生产工艺（根据国家履行国际公约总体计划要求进行淘汰）
 19. 自行车盐浴焊接炉
 20. 印铁制罐行业中的锡焊工艺
 21. 火柴排梗、卸梗生产工艺
 22. 火柴理梗机、排梗机、卸梗机
 23. 含重铬酸钾火柴
 24. 冲击式制钉机
 25. 打击式金属丝网织机
 26. 年产3万吨以下酒精生产线（废糖蜜制酒精除外）

27. 年产 3 万吨以下味精生产线
28. 环保不达标的柠檬酸生产工艺及装置
29. 日处理原料乳能力（两班）20 吨以下浓缩、喷雾干燥等设施；200 千克/小时以下手动及半自动液体乳灌装设备（2010 年）
30. 每分钟生产能力小于 150 瓶（瓶容在 250 毫升及以下）的碳酸饮料生产线
31. 生产能力 12000 瓶/时以下的玻璃瓶啤酒灌装生产线（出口除外）
32. 机械定时行列式制瓶机
33. 燃煤和燃发生炉煤气的坩埚玻璃窑，直火式、无热风循环的玻璃退火炉
34. 用聚氯乙烯（PVC）生产接触饮料和食品的包装（2011 年）
35. 湿法纤维板生产工艺
36. 滴水法松香生产工艺
37. 汞电池（氧化汞原电池及电池组、锌汞电池）
38. 含汞高于 0.0001% 的圆柱型碱锰电池
39. 含汞高于 0.0005% 的扣式碱锰电池（2015）
40. 含镉高于 0.002% 的铅酸蓄电池（2013）
41. 开口式普通铅酸电池
42. 厚度低于 0.025 毫米的商品零售购物塑料袋（可降解的除外）
43. 直排式燃气热水器
44. 螺旋升降式（铸铁）水嘴
45. 铸铁截止阀
46. 进水口低于溢流口水面、上导向直落式便器水箱配件
47. 半自动（卧式）工业用洗衣机
48. 外排式四氯乙烯干洗机，分体式和外排式石油干洗机
49. 脂肪酸法制叔胺工艺，发烟硫酸磺化工艺，搅拌

釜式乙氧基化工艺

50. 生猪屠宰桥式劈半锯、敞式生猪烫毛机设备
51. 全部铅印机及相关辅机
52. 照像制版机
53. ZD201、ZD301 型系列单字铸字机
54. TH1 型自动铸条机
55. ZT102 型系列铸条机
56. ZDK101 型字模雕刻机
57. KMD101 型字模刻刀磨床
58. AZP502 型半自动汉文手选铸排机
59. ZSY101 型半自动汉文铸排机
60. ZZP101 型汉文自动铸排机
61. TZP101 型外文条字铸排机
62. QY401、2QY404 型系列电动铅印打样机
63. QYSH401、2QY401、DY401 型手动式铅印打样机
64. YX01、YX02、YX03 型系列压纸型机
65. HX01、HX02、HX03、HX04 型系列烘纸型机
66. PZB401 型平铅版铸版机
67. JB01 型平铅版浇版机
68. YZB02、YZB03、YZB04、YZB05、YZB06、YZB07 型

系列铅版铸版机

69. RQ02、RQ03、RQ04 型系列铅泵熔铅炉
70. BB01 型刨版机
71. YGB02、YGB03、YGB04、YGB05 型圆铅版刮版机
72. YTB01 型圆铅版镗版机
73. YJB02 型圆铅版锯版机
74. YXB04、YXB05、YXB302 型系列圆铅版修版机
75. P401、P402 型系列四开平压印刷机
76. P801、P802、P803、P804 型系列八开平压印刷机
77. PE802 型双合页印刷机
78. TY201 型对开单色一回转平台印刷机
79. TY401 型四开单色一回转平台印刷机

80. TY4201 型四开一回转双色印刷机
81. TE102、TE105、TE108 型系列全张自动二回转平台印刷机
82. 手动续纸停回转平台印刷机：TT201、TZ201、DT201 型（对开）
83. 半自动停回转平台印刷机：TZ202 型（对开），TZ401、TZS401、DT401 型（四开）
84. 自动停回转平台印刷机：TT202 型（对开），TT402、TT403、TT405、DT402 型（四开）
85. TR801 型系列立式平台印刷机
86. LP1101、LP1103 型系列平板纸全张单面轮转印刷机
87. LP1201 型平板纸全张双面轮转印刷机
88. LP4201 型平板纸四开双色轮转印刷机
89. LSB201（880×1230 毫米）及 LS201、LS204（787×1092 毫米）型系列卷筒纸书刊转轮印刷机
90. LB203、LB205、LB403 型卷筒纸报版轮转印刷机
91. LB2405、LB4405 型卷筒纸双层二组报版轮转印刷机
92. LBS201 型卷筒纸书、报二用轮转印刷机
93. K. M. T 型自动铸字排版机
94. PH-5 型汉字排字机
95. 球震打样制版机（DIA PRESS 清刷机）
96. 1985 年前生产的国产制版照相机
97. 1985 年前生产的手动照排机
98. 离心涂布机
99. 单色胶印机（印刷速度每小时 4000 张及以下）：J2101、PZ1920 系列（对开），J1101 系列（全张），PZ1615 系列（四开），YPS1920 系列（双面）
100. W1101 型全张自动凹版印刷机
101. AJ401 型卷筒纸单面四色凹版印刷机
102. DJ01 型平装胶订联动机

103. PRD-01、PRD-02 型平装胶订联动机
104. DBT-01 型平装有线订、包、烫联动机
105. 溶剂型即涂覆膜机
106. QZ101、QZ201、QZ301、QZ401 型切纸机
107. MD103A 型磨刀机

七、纺织

1. “1” 字头的纺纱、织造设备
 2. A512、A513 型系列细纱机
 3. B581、B582 型精纺细纱机
 4. BC581、BC582 型粗纺细纱机
 5. 辊长 1000 毫米以下的皮辊轧花机
 6. 锯片在 80 以下的锯齿轧花机
 7. 压力吨位在 400 吨以下的皮棉打包机(不含 160 吨、200 吨短绒棉花打包机)
 8. B591 绒线细纱机
 9. B601、B601A 型毛捻线机
 10. BC272、BC272B 型粗纺梳毛机
 11. B751 型绒线成球机
 12. B701A 型绒线摇绞机
 13. B250、B311、B311C、B311C (CZ) 、B311C (DJ)
- 型精梳机
14. H112、H112A 型毛分条整经机
 15. H212 型毛织机
 16. 使用期限超过 20 年未经改造的各类国产毛纺细纱机
 17. ZD647、ZD721、D101A 型自动缫丝机
 18. ZD681 型立缫机
 19. DJ561 型绢精纺机
 20. K251、K251A 型丝织机

21. Z114 型小提花机
22. GE186 型提花毛圈机
23. Z261 型人造毛皮机
24. 使用期限超过 15 年的浴比大于 1: 10 的棉及化纤间歇式染色设备 (2011 年)
25. 未经改造的 74 型染整设备 (2011 年)
26. 使用年限超过 15 年的国产和使用年限超过 20 年的进口印染前处理设备、拉幅和定形设备、圆网和平网印花机、连续染色机 (2011 年)
27. R531 型酸性老式粘胶纺丝机 (2011 年)
28. 年产 2 万吨以下常规粘胶短纤维生产线 (2011 年)
29. 二甲基甲酰胺 (DMF) 溶剂法常规氨纶生产工艺 (2011 年)
30. 湿法氨纶生产工艺 (2011 年)
31. 二甲基甲酰胺 (DMF) 溶剂法腈纶生产工艺 (2013 年)
32. 硝酸法腈纶常规纤维生产工艺
33. 涤纶长丝锭轴长 900 毫米以下的半自动卷绕设备 (2011 年)
34. 间歇法常规聚酯产品设备 (2011 年)
35. 螺杆挤出机直径小于等于 90 毫米, 年产 2000 吨以下的涤纶再生纺短维生产装置

八、医药

1. 手工胶囊填充工艺
2. 软木塞烫蜡包装药品工艺
3. 不符合 GMP 要求的安瓿拉丝灌封机
4. 塔式重蒸馏水器
5. 无净化设施的热风干燥箱
6. 劳动保护、三废治理不能达到国家标准的原料药生

产工艺和装置

7. 使用含苯油墨和添加剂进行表面印刷药包材产品的工艺
8. 铁粉还原法对乙酰氨基酚（扑热息痛）、咖啡因装置
9. 使用氯氟烃（CFCs）作为气雾剂、推进剂、抛射剂或分散剂的医药用品生产工艺
10. 安瓿灌装注射用无菌粉末
11. 铅锡软膏管、单层聚烯烃软膏管
12. 药用天然胶塞
13. 非易折安瓿
14. 输液用聚氯乙烯（PVC）软袋（不包括腹膜透析液、冲洗液用）
15. 单层聚烯烃软膏管（肛肠、腔道给药除外）

注：条目后括号内年份为淘汰期限，如淘汰期限为“2010年”是指最迟应于2010年底前淘汰，其余类推；有淘汰计划的条目，根据计划进行淘汰；未标淘汰期限或淘汰计划的条目为已过淘汰期限应立即淘汰。

中华人民共和国价格法

(1997年12月29日第八届全国人民代表大会常务委员会第二十九次会议通过 1997年12月29日中华人民共和国主席令第九十二号公布 自1998年5月1日起施行)

目 录

- 第一章 总 则
- 第二章 经营者的价格行为
- 第三章 政府的定价行为
- 第四章 价格总水平调控
- 第五章 价格监督检查
- 第六章 法律责任
- 第七章 附 则

第一章 总 则

第一条 为了规范价格行为，发挥价格合理配置资源的作用，稳定市场价格总水平，保护消费者和经营者的合法权益，促进社会主义市场经济健康发展，制定本法。

第二条 在中华人民共和国境内发生的价格行为，适用本法。

本法所称价格包括商品价格和服务价格。

商品价格是指各类有形产品和无形资产的价格。

服务价格是指各类有偿服务的收费。

第三条 国家实行并逐步完善宏观经济调控下主要由市场形成价格的机制。价格的制定应当符合价值规律，大多数商品和服务价格实行市场调节价，极少数商品和服务价格实行政府指导价或者政府定价。

市场调节价，是指由经营者自主制定，通过市场竞争形成的价格。

本法所称经营者是指从事生产、经营商品或者提供有偿服务的法人、其他组织和个人。

政府指导价，是指依照本法规定，由政府价格主管部门或者其他有关部门，按照定价权限和范围规定基准价及其浮动幅度，指导经营者制定的价格。

政府定价，是指依照本法规定，由政府价格主管部门或者其他有关部门，按照定价权限和范围制定的价格。

第四条 国家支持和促进公平、公开、合法的市场竞争，维护正常的价格秩序，对价格活动实行管理、监督和必要的调控。

第五条 国务院价格主管部门统一负责全国的价格工作。国务院其他有关部门在各自的职责范围内，负责有关的价格工作。

县级以上地方各级人民政府价格主管部门负责本行政区域内的价格工作。县级以上地方各级人民政府其他有关部门在各自的职责范围内，负责有关的价格工作。

第二章 经营者的价格行为

第六条 商品价格和服务价格，除依照本法第十八条规定适用政府指导价或者政府定价外，实行市场调节价，由经营者依照本法自主制定。

第七条 经营者定价，应当遵循公平、合法和诚实信用的原则。

第八条 经营者定价的基本依据是生产经营成本和市场供求状况。

第九条 经营者应当努力改进生产经营管理，降低生产经营成本，为消费者提供价格合理的商品和服务，并在市场竞争中获取合法利润。

第十条 经营者应当根据其经营条件建立、健全内部价格管理制度，准确记录与核定商品和服务的生产经营成本，不得弄虚作假。

第十一条 经营者进行价格活动，享有下列权利：

（一）自主制定属于市场调节的价格；

（二）在政府指导价规定的幅度内制定价格；

（三）制定属于政府指导价、政府定价产品范围内的新产品的试销价格，特定产品除外；

（四）检举、控告侵犯其依法自主定价权利的行为。

第十二条 经营者进行价格活动，应当遵守法律、法规，执行依法制定的政府指导价、政府定价和法定的价格干预措施、紧急措施。

第十三条 经营者销售、收购商品和提供服务，应当按照政府价格主管部门的规定明码标价，注明商品的品名、产地、规格、等级、计价单位、价格或者服务的项目、收费标准等有关情况。

经营者不得在标价之外加价出售商品，不得收取任何未予标明的费用。

第十四条 经营者不得有下列不正当价格行为：

（一）相互串通，操纵市场价格，损害其他经营者或者消费者的合法权益；

（二）在依法降价处理鲜活商品、季节性商品、积压商品等商品外，为了排挤竞争对手或者独占市场，以低于成本的价格倾销，扰乱正常的生产经营秩序，损害国家利益或者其他经营者的合法权益；

（三）捏造、散布涨价信息，哄抬价格，推动商品价格过高上涨的；

（四）利用虚假的或者使人误解的价格手段，诱骗消费者或者其他经营者与其进行交易；

(五) 提供相同商品或者服务，对具有同等交易条件的其他经营者实行价格歧视；

(六) 采取抬高等级或者压低等级等手段收购、销售商品或者提供服务，变相提高或者压低价格；

(七) 违反法律、法规的规定牟取暴利；

(八) 法律、行政法规禁止的其他不正当价格行为。

第十五条 各类中介机构提供有偿服务收取费用，应当遵守本法的规定。法律另有规定的，按照有关规定执行。

第十六条 经营者销售进口商品、收购出口商品，应当遵守本章的有关规定，维护国内市场秩序。

第十七条 行业组织应当遵守价格法律、法规，加强价格自律，接受政府价格主管部门的工作指导。

第三章 政府的定价行为

第十八条 下列商品和服务价格，政府在必要时可以实行政府指导价或者政府定价：

(一) 与国民经济发展和人民生活关系重大的极少数商品价格；

(二) 资源稀缺的少数商品价格；

(三) 自然垄断经营的商品价格；

(四) 重要的公用事业价格；

(五) 重要的公益性服务价格。

第十九条 政府指导价、政府定价的定价权限和具体适用范围，以中央的和地方的定价目录为依据。

中央定价目录由国务院价格主管部门制定、修订，报国务院批准后公布。

地方定价目录由省、自治区、直辖市人民政府价格主管部门按照中央定价目录规定的定价权限和具体适用范围制定，经本级人民政府审核同意，报国务院价格主管部门审定后公布。

省、自治区、直辖市人民政府以下各级地方人民政府不得制定定价目录。

第二十条 国务院价格主管部门和其他有关部门，按照中央定价目录规定的定价权限和具体适用范围制定政府指导价、政府定价；其中重要的商品和服务价格的政府指导价、政府定价，应当按照规定经国务院批准。

省、自治区、直辖市人民政府价格主管部门和其他有关部门，应当按照地方定价目录规定的定价权限和具体适用范围制定在本地区执行的政府指导价、政府定价。

市、县人民政府可以根据省、自治区、直辖市人民政府的授权，按照地方定价目录规定的定价权限和具体适用范围制定在本地区执行的政府指导价、政府定价。

第二十一条 制定政府指导价、政府定价，应当依据有关商品或者服务的社会平均成本和市场供求状况、国民经济与社会发展要求以及社会承受能力，实行合理的购销差价、批零差价、地区差价和季节差价。

第二十二条 政府价格主管部门和其他有关部门制定政府指导价、政府定价，应当开展价格、成本调查，听取消费者、经营者和有关方面的意见。

政府价格主管部门开展对政府指导价、政府定价的价格、成本调查时，有关单位应当如实反映情况，提供必需的帐簿、文件以及其他资料。

第二十三条 制定关系群众切身利益的公用事业价格、公益性服务价格、自然垄断经营的商品价格等政府指导价、政府定价，应当建立听证会制度，由政府价格主管部门主持，征求消费者、经营者和有关方面的意见，论证其必要性、可行性。

第二十四条 政府指导价、政府定价制定后，由制定价格的部门向消费者、经营者公布。

第二十五条 政府指导价、政府定价的具体适用范围、价格水平，应当根据经济运行情况，按照规定的定价权限和程序适时调整。

消费者、经营者可以对政府指导价、政府定价提出调整建议。

第四章 价格总水平调控

第二十六条 稳定市场价格总水平是国家重要的宏观经济政策目标。国家根据国民经济发展的需要和社会承受能力，确定市场价格总水平调控目标，列入国民经济和社会发展规划，并综合运用货币、财政、投资、进出口等方面的政策和措施，予以实现。

第二十七条 政府可以建立重要商品储备制度，设立价格调节基金，调控价格，稳定市场。

第二十八条 为适应价格调控和管理的需要，政府价格主管部门应当建立价格监测制度，对重要商品、服务价格的变动进行监测。

第二十九条 政府在粮食等重要农产品的市场购买价格过低时，可以在收购中实行保护价格，并采取相应的经济措施保证其实现。

第三十条 当重要商品和服务价格显著上涨或者有可能显著上涨，国务院和省、自治区、直辖市人民政府可以对部分价格采取限定差价率或者利润率、规定限价、实行提价申报制度和调价备案制度等干预措施。

省、自治区、直辖市人民政府采取前款规定的干预措施，应当报国务院备案。

第三十一条 当市场价格总水平出现剧烈波动等异常状态时，国务院可以在全国范围内或者部分区域内采取临时集中定价权限、部分或者全面冻结价格的紧急措施。

第三十二条 依照本法第三十条、第三十一条的规定实行干预措施、紧急措施的情形消除后，应当及时解除干预措施、紧急措施。

第五章 价格监督检查

第三十三条 县级以上各级人民政府价格主管部门，依法对价格活动进行监督检查，并依照本法的规定对价格违法行为实施行政处罚。

第三十四条 政府价格主管部门进行价格监督检查时，可以行使下列职权：

（一）询问当事人或者有关人员，并要求其提供证明材料和与价格违法行为有关的其他资料；

（二）查询、复制与价格违法行为有关的帐簿、单据、凭证、文件及其他资料，核对与价格违法行为有关的银行资料；

（三）检查与价格违法行为有关的财物，必要时可以责令当事人暂停相关营业；

（四）在证据可能灭失或者以后难以取得的情况下，可以依法先行登记保存，当事人或者有关人员不得转移、隐匿或者销毁。

第三十五条 经营者接受政府价格主管部门的监督检查时，应当如实提供价格监督检查所必需的帐簿、单据、凭证、文件以及其他资料。

第三十六条 政府部门价格工作人员不得将依法取得的资料或者了解的情况用于依法进行价格管理以外的任何其他目的，不得泄露当事人的商业秘密。

第三十七条 消费者组织、职工价格监督组织、居民委员会、村民委员会等组织以及消费者，有权对价格行为进行社会监督。政府价格主管部门应当充分发挥群众的价格监督作用。

新闻单位有权进行价格舆论监督。

第三十八条 政府价格主管部门应当建立对价格违法行为的举报制度。

任何单位和个人均有权对价格违法行为进行举报。政府价格主管部门应当对举报者给予鼓励，并负责为举报者保密。

第六章 法律责任

第三十九条 经营者不执行政府指导价、政府定价以及法定的价格干预措施、紧急措施的，责令改正，没收违法所得，可以并处违法所得五倍以下的罚款；没有违法所得的，可以处以罚款；情节严重的，责令停业整顿。

第四十条 经营者有本法第十四条所列行为之一的，责令改正，没收违法所得，可以并处违法所得五倍以下的罚款；没有违法所得的，予以警告，可以并处罚款；情节严重的，责令停业整顿，或者由工商行政管理机关吊销营业执照。有关法律对本法第十四条所列行为的处罚及处罚机关另有规定的，可以依照有关法律的规定执行。

有本法第十四条第（一）项、第（二）项所列行为，属于是全国性的，由国务院价格主管部门认定；属于是省及省以下区域性的，由省、自治区、直辖市人民政府价格主管部门认定。

第四十一条 经营者因价格违法行为致使消费者或者其他经营者多付价款的，应当退还多付部分；造成损害的，应当依法承担赔偿责任。

第四十二条 经营者违反明码标价规定的，责令改正，没收违法所得，可以并处五千元以下的罚款。

第四十三条 经营者被责令暂停相关营业而不停止的，或者转移、隐匿、销毁依法登记保存的财物的，处相关营业所得或者转移、隐匿、销毁的财物价值一倍以上三倍以下的罚款。

第四十四条 拒绝按照规定提供监督检查所需资料或者提供虚假资料的，责令改正，予以警告；逾期不改正的，可以处以罚款。

第四十五条 地方各级人民政府或者各级人民政府有关部门违反本法规定，超越定价权限和范围擅自制定、调整价格或者不执行法定的价格干预措施、紧急措施的，责令改正，并可以通报批评；对直接负责的主管人员和其他直接责任人员，依法给予行政处分。

第四十六条 价格工作人员泄露国家秘密、商业秘密以及滥用职权、徇私舞弊、玩忽职守、索贿受贿，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予处分。

第七章 附 则

第四十七条 国家行政机关的收费，应当依法进行，严格控制收费项目，限定收费范围、标准。收费的具体管理办法由国务院另行制定。

利率、汇率、保险费率、证券及期货价格，适用有关法律、行政法规的规定，不适用本法。

第四十八条 本法自 1998 年 5 月 1 日起施行。

PRICE LAW OF THE PEOPLE'S REPUBLIC OF CHINA

(Issued on December 29, 1997 and by President's decree of PRC (No. 92). Adopted at the 29th Meeting of the Standing Committee of the Eight National People's Congress and implementation as of May 1, 1998.)

CONTENTS

CHAPTER ONE	GENERAL PROVISIONS
CHAPTER TWO	PRICE BEHAVIOR OF BUSINESS OPERATORS
CHAPTER THREE	PRICE BEHAVIOR OF GOVERNMENT
CHAPTER FOUR	CONTROL AND ADJUSTMENT TO GENERAL PRICE LEVEL
CHAPTER FIVE	MONITORING AND CHECKING OF PRICES
CHAPTER SIX	LEGAL LIABILITIES
CHAPTER SEVEN	SUPPLEMENTARY PROVISIONS

CHAPTER ONE GENERAL PROVISIONS

Article 1 This law is formulated with a view to standardizing price behavior so as to strengthen their role in rational disposition of resources, stabilize the general price level of the market, protect the lawful rights and interests of consumers and business operators and then promote the healthy development of the socialist market economy.

Article 2 The law is applicable to all the price behaviors that occur within the territory of the People's Republic of China.

The term "price" used in the law includes prices of all kinds of merchandise and prices of all kinds of services.

The term "price of merchandise" refers to the prices of all kinds of tangible and non-tangible assets.

The term "price of services" refers to fees collected for services rendered.

Article 3 The State shall introduce and gradually improve the mechanism of regulation of prices mainly through market force and under a kind of macroeconomic control. Under such a mechanism, pricing should be made to accord with the value law with most of the merchandises

and services to adopt market regulated prices while only a few of them to be put under government-set or guided prices.

Market-regulated prices refer to prices fixed independently by business operators through market competition.

"Business operator" used in this law refers to legal persons, other organizations or individuals that engage in production or marketing of merchandises or provide paid services.

Government-guided prices refer to prices as fixed by business operators according to benchmark prices and range of the prices as set by the government department in charge of price or other related departments within their term of reference.

Government-set prices as fixed by the government department in charge of prices or related departments within their term of reference according to the provisions of this law.

Article 4 The State shall support and prompt fair, open and legal market competition, maintain normal price order and exercise administration, regulation and necessary control over conduct of prices.

Article 5 The State Council department in charge of prices shall be responsible for the administration of the work related to prices in the whole country and other related departments shall be responsible for such work within their terms of reference.

Price departments of the people's governments at and above the county level shall be responsible for the work related to prices within the regions under their jurisdiction. Price departments of the people's governments at and above the county level shall be responsible for the work related to prices within their terms of reference.

CHAPTER TWO PRICE BEHAVIOR OF BUSINESS OPERATORS

Article 6 Prices of all merchandises and services, except those as set in Article 18 of this law to adopt government-set or guided prices, shall be subject to market regulation to be fixed by business operators independently according to the provisions of this law.

Article 7 In fixing prices, business operators should follow the principle of fairness, lawfulness, honesty and trustworthiness.

Article 8 Prices should be fixed by business operators basing on the cost of production or operation and market supply and demand.

Article 9 Business operators should strive for a better management to their own production and business operations so as to lower cost and provide consumers with merchandises and services at reasonable prices while obtaining lawful profits in market competition.

Article 10 Business operators should establish and improve their system of internal price management, accurately record and verify the cost of production or operations for their merchandise or services, in which any deception or forgery is not allowed.

Article 11 Operators shall enjoy the following rights in pricing:

1. To fix prices that are subject to market regulation;
2. To fix prices within the guided range as set by the government;
3. To fix prices for new products which are subject to government-set or guided prices, except special products for trial sales; and
4. To report or claim against actions that have infringe upon their rights of independent pricing.

Article 12 In their work related to prices, business operators should strictly keep up with laws, regulations, government guided-prices, government-set prices, legal price intervention measures and emergency measures adopted by the government according to law.

Article 13 In marketing and purchasing merchandises or providing services, business operators should clearly tap the related prices, specify names, places of origin, specifications, grades, price units, prices or items, fee collection standards and other related information according to the government's regulations.

Business operators must not sell merchandises at prices above the marked prices or collect fees not specified.

Article 14 Business operators must not act whatsoever in the following ways to effect abnormal price behaviors:

1. To work collaboratively with others to control market prices to great detriments to the lawful rights and interests of other business operators or consumers;
2. To engage in dumping sales (except the cases of sales of fresh and live merchandises, seasonal merchandises and stockpiled merchandises at discount) at below cost prices in order to attain an upper hand over rivals or dominate the market and disrupt the normal production and operation

order to great detriments to the interests of the State or the lawful rights and interests of other business operators;

3. To fabricate and spread price rise information for pushing up the prices to excessively high level;
4. To resort to deceitful or misleading means in terms of prices to entice consumers or other business operators into trading in terms of prices;
5. To discriminate in terms of prices same kinds of merchandises or services offered by certain business operators under same trading conditions;
6. To disguisely raise or lower prices at irrational ranges by artificially raising or lowering grades of merchandises or services;
7. To seek exorbitant profits in violation of laws and regulations; and
8. To effect other illicit price behaviors that are forbidden by law or administrative decrees.

Article 15 In collecting fees for services rendered, all intermediary organizations should abide by the provisions of this law, except otherwise provided by other laws.

Article 16 In a bid to keep the domestic market order, business operators must observe related provisions of this chapter in selling imported merchandises or purchasing export merchandises.

Article 17 Organizations of various sectors should abide by laws and regulations governing prices, persist in self-discipline with regard to prices and accept guidance from government price departments.

CHAPTER THREE PRICE BEHAVIOR OF GOVERNMENT

Article 18 The government shall issue government-set or guided prices for the following merchandises and services if necessary:

1. The few merchandises that are of great importance to development of the national economy and the people's livelihood;
2. The few merchandises that are in shortage of resources;
3. Merchandises of monopoly in nature;
4. Important public utilities;
5. Important services of public welfare in nature.

Article 19 Scope of specific items and uses for government-set or guided prices shall depend on the price catalogs issued by the central and local governments.

Catalogs of central government-set prices shall be fixed and revised by the price department of the State Council and published after the approval of the State Council.

Catalogs of prices to be set by departments of the people's governments of provinces, autonomous regions and municipalities within their power according to scope of specific items and uses as set in the central price catalog could be published with the examination and approval of the people's governments at the same level.

Local people's governments below the provincial, autonomous regional and municipal level shall not make their own price catalogs.

Article 20 State Council price department and other related departments shall fix government-set and guided prices according to scope of items and uses as set in the central prices and the government-set and guided prices for major merchandises and services shall get the approval from the State Council.

Price departments and other related departments of the people's governments of provinces, autonomous regions and municipalities shall fix indicative local government-set and guided prices within their respective power according to scope of items and uses as set in the local price catalogs.

People's governments of cities and counties may fix government-set and guided prices for their localities within their own power according to scope of items and uses as prescribed in the local price catalogs.

Article 21 Government-set and guided prices shall be fixed according to the average cost and market supply and demand of related merchandises or services, the economic and social development and the affordance of the people, allowing rational price differentials between buying and selling, between wholesale and retail sale, among different regions and different seasons.

Article 22 In fixing government-set and guided prices, price departments and other related departments shall carry out investigations into prices and costs and hear views from consumers, business operators and other quarters.

Upon investigated by government price departments and related departments in terms of prices and costs, related units should provide true fact and necessary books, documents and other materials.

Article 23 In fixing government-set and guided prices for public utilities services of public welfare in nature and the prices for merchandises of monopoly in nature that are important to immediate interest of people public hearings presided over by government price department should be conveyed to solicit views from consumers, business operators and other quarters to explore the necessity and feasibility.

Article 24 After the government-set and guided prices are determined, they shall be made public by the price departments.

Article 25 The scope and level of the government-set and guided prices shall properly be adjusted in the light of the operation of the national economy.

Consumers and business operators may put forward their recommendations with regard to the adjustment of the government-set and guided prices.

CHAPTER FOUR CONTROL AND ADJUSTMENT TO GENERAL PRICE LEVEL

Article 26 To stabilize the general price level is one of the major objectives of macro-economic policy. The State shall set targets for the monitoring and adjustment of general price level in the light of the requirements of the development of the national economy and the endurance of the people, list them into the national economic and social development programs and help their realization through means of monetary, fiscal, investment and import and export policies and measures.

Article 27 The government shall build a major merchandise reserve system and establish a price regulation fund to control prices and stabilize the market.

Article 28 In order to better control prices, government price departments shall establish a price monitoring system to monitor changes in the prices of major merchandises and services.

Article 29 Whereas the selling prices of grain and other major farm produce are too low on the market, the government shall introduce protective prices and adopt corresponding measures to ensure the protective prices be put into effect.

Article 30 Whereas prices of major merchandises or services rise sharply or are likely to rise sharply, the State Council and the people's governments of provinces, autonomous regions and municipalities may set limit at disparity of prices or rate of profitability for part of the

merchandises, fix price ceilings or introduce other measures for intervention such as a system for announcing or recording price rises.

After adoption of above-mentioned intervention measures, provincial, autonomous regional and municipal people's governments should report to the State Council for the record.

Article 31 When such abnormalities as violent fluctuation in the general price level occur nationwide, the State Council shall introduce power for the concentrated fixation of prices in the whole country or part of the regions for the time being or adopt such emergency measures as freezing part or all prices.

Article 32 The intervention or emergency measures introduced according to the provisions of Article 30 and Article 31 shall be removed or lifted in time when the situations that call for such measures disappear.

CHAPTER FIVE MONITORING AND CHECKING OF PRICES

Article 33 The price departments of the people's governments at and above the county level exercise monitoring and checking over pricing activities according to law and mete out administrative punishments on acts that violate the law.

Article 34 In exercising monitoring and checking of prices, government price departments shall exercise the following powers:

1. To inquire into people concerned or related personnel and demand for evidences or other materials relating to law-violating acts;
2. To look into and duplicate account books, bills, vouchers, documents or other materials related to price law violating acts and verify banking materials associated with price law violating acts.
3. To check property related to the price law violating acts and, if necessary, order the people concerned to stop business operation.
4. To register and keep some evidences that are liable to be destroyed or kept out of hand or is hard to obtain for which people concerned or related personnel must not in any case remove, hide or destroy.

Article 35 In accepting the monitoring and checking by government price departments, business operators should provide their account books, bills and vouchers, documents or other materials needed for such monitoring and checking.

Article 36 The personnel of government prices departments are wholly prohibited to use materials or information obtained according to law for purposes other than price control or reveal business secrets of the people concerned.

Article 37 Consumer organizations, workers' price monitoring organizations, neighborhood committees, village committees and consumers have the right to exercise monitoring over price activities. Government price departments should give a full play to the monitoring roles of the people.

Medias have the right to mobilize public opinion for the monitoring of prices.

Article 38 Government price departments shall establish a system for reporting acts of violation of the price law.

Any unit or individual has the right to report acts of violation of price law and the government price departments shall encourage such reporting and undertake to keep secret what concerns concerning the reporters.

CHAPTER SIX LEGAL LIABILITIES

Article 39 Business operators who refuse to implement the government-set or guided prices, legal price intervention measures or emergency measures shall be ordered to correct, have their illegal proceeds confiscated and be fined concurrently for an amount less than five times the illegal proceeds. In cases of no illegal proceeds involved, a fine may still be imposed. For serious cases, they shall be ordered to stop business operation and make correction.

Article 40 Business operators who have violated one of the acts listed in Article 14 of this law shall be ordered to correct, have their illegal proceeds confiscated and be fined concurrently for an amount less than five times the illegal proceeds. In cases of no illegal proceeds involved, a warning shall be issued, together with a fine. For serious cases, they shall be ordered to stop operation for correction or have their business licenses revoked.

If other laws have stipulations concerning the punishments for acts listed in Article 14 of this law, the related laws shall prevail. Whether acts listed in 1, 2 of Article 14 and are of national in nature shall be upon the judgment of the State Council price department and whether the acts are regional in nature, they shall be confirmed by price departments of provincial, autonomous regional and municipal people's governments.

Article 41 Whereas business operators have caused overpayment by consumers or other business operators in violation of price law, the part in excess of the due payment shall be returned. If damages are done, the business operators shall undertake to compensate for the losses.

Article 42 Whereas business operators violate the provisions about price marking, they shall be ordered to correct, have their proceeds confiscated and be fined concurrently for an amount of less than RMB5,000.

Article 43 For business operators who refuse to stop operation for correction as ordered or remove, hide or destroy things recorded for keeping according to law, a fine ranging from over one time to less than three times the value of the things removed, hidden or destroyed shall be imposed.

Article 44 Business operators who refuse to provide materials needed for price monitoring and checking or provide false materials shall be ordered to correct, with a warning. Whereas they refuse to correct within the prescribed time limit, a fine shall be imposed.

Article 45 Whereas local people's governments at all levels or related government departments at all levels fix or adjust prices beyond their terms of reference or refuse to implement price intervention measures or emergency measures shall be ordered to correct and may be criticized by issuing circulars. People in charge or related people directly responsible shall be given administrative punishments according to law.

Article 46 Whereas government personnel in charge of prices have leaked state secrets, commercial secrets or abused their power, resort to deception for personal gains, commit dereliction of duty or accept bribes and the cases are serious enough as to constitute crimes, criminal responsibilities shall be affixed. If a case is not serious enough to constitute a crime, an administrative punishment shall be meted out.

CHAPTER SEVEN SUPPLEMENTARY PROVISIONS

Article 47 State administrative organs shall collect fees strictly according to law, limit fee collection items and scope and standards of fee collection. Specific administration methods for such fee collection shall be provided for separately by the State Council.

Interest rates, exchange rates, insurance premium rates, securities and futures prices shall be subject to related laws or administrative decrees instead of this law.

Article 48 The law shall come into force as of May 1, 1998.