

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.

(I) 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.

(I) 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.

[http://www.gov.cn/zwzk/2011-01/17/content\\_1785957.htm](http://www.gov.cn/zwzk/2011-01/17/content_1785957.htm)

# 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口动植物检疫法》”。

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》”。

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。”