

【Title】 Administrative Reconsideration Law of the People's Republic of China[已被修订]
【法规标题】 中华人民共和国行政复议法 [Revised]

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Order of the President of the People's Republic of China
(No.16)

The Administrative Reconsideration Law of the People's Republic of China, which was adopted at the Ninth Session of the Standing Committee of the Ninth National People's Congress on April 29, 1999, and hereby promulgated and shall come into force as of October 1, 1999.

President of the People's Republic of China: Jiang Zemin
April 29, 1999

Administrative Reconsideration Law of the People's Republic of China
(Adopted at the Ninth Meeting of the Standing Committee of the Ninth National People's Congress on April 29, 1999)

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中华人民共和国主席令
(第十六号)

《中华人民共和国行政复议法》已由中华人民共和国第九届全国人民代表大会常务委员会第九次会议于1999年4月29日通过，现予公布，自1999年10月1日起施行。

中华人民共和国主席 江泽民
1999年4月29日

中华人民共和国行政复议法
(1999年4月29日第九届全国人民代表大会
常务委员会第九次会议通过)

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Chapter I General Provisions

Article 1 This Law is enacted pursuant to [the Constitution](#) for the purpose of preventing and correcting any illegal or improper specific administrative acts, protecting the lawful rights and interests of citizens, legal persons and other organizations, safeguarding and supervising the exercise of

第一章 总则

第一条 为了防止和纠正违法的或者不当的具体行政行为，保护公民、法人和其他组织的合法权益，保障和监督行政机关依法行使职权，根据[宪法](#)，制定本

functions and powers by administrative organs in accordance with law.

Article 2 This Law is applicable to a citizen, legal person or any other organization who considers that his or its lawful rights and interests have been infringed upon by a specific administrative act, and applies for administrative reconsideration to an administrative organ which accepts the application for administrative reconsideration, and makes a decision of administrative reconsideration.

Article 3 Administrative organs performing their duties of administrative reconsideration in accordance with this Law are administrative reconsideration organs. The offices responsible for legal affairs within administrative reconsideration organs shall handle concrete matters related to administrative reconsideration and perform the following duties:

- (1) accepting applications for administrative reconsideration;
- (2) taking of evidence from organizations and persons concerned, and consulting files and materials;
- (3) reviewing the legality and appropriateness of any specific administrative acts being applied for administrative reconsideration, and drawing up decisions of administrative reconsideration;
- (4) handling or forwarding applications for reviewing items listed in Article 7 of this Law;
- (5) putting forward proposals, in accordance with statutory authorities and procedures, on disposing acts violating the provisions of this Law committed by administrative organs;
- (6) handling affairs responding to action, if deciding to bring a suit in circumstances of refusing to accept the reconsideration decision;
- (7) other duties prescribed by laws and regulations.

Article 4 Administrative reconsideration organs shall, when performing duties of administrative reconsideration, follow the principles of being lawful, fairness, openness, timely, and convenient to peoples, insist on correcting every wrong, and ensuring to implement laws and regulations correctly.

Article 5 If any citizen, legal person or any other organization refuses to accept an administrative reconsideration decision, he or it may, in accordance with the provisions of [Administrative Procedure Law of the People's Republic of China](#), bring an administrative lawsuit before a people's court, except that the administrative decision is, as provided for by law, a final decision.

Chapter II Scope of Administrative Reconsideration

Article 6 A citizen, legal person, or any other organization may, in accordance with this Law, file an application for administrative

法。

第二条 公民、法人或者其他组织认为具体行政行为侵犯其合法权益，向行政机关提出行政复议申请，行政机关受理行政复议申请、作出行政复议决定，适用本法。

第三条 依照本法履行行政复议职责的行政机关是行政复议机关。行政复议机关负责法制工作的机构具体办理行政复议事项，履行下列职责：

- （一）受理行政复议申请；
- （二）向有关组织和人员调查取证，查阅文件和资料；
- （三）审查申请行政复议的具体行政行为是否合法与适当，拟订行政复议决定；
- （四）处理或者转送对本法第七条所列有关规定的审查申请；
- （五）对行政机关违反本法规定的行为依照规定的权限和程序提出处理建议；
- （六）办理因不服行政复议决定提起行政诉讼的应诉事项；
- （七）法律、法规规定的其他职责。

第四条 行政复议机关履行行政复议职责，应当遵循合法、公正、公开、及时、便民的原则，坚持有错必纠，保障法律、法规的正确实施。

第五条 公民、法人或者其他组织对行政复议决定不服的，可以依照[行政诉讼法](#)的规定向人民法院提起行政诉讼，但是法律规定行政复议决定为最终裁决的除外。

第二章 行政复议范围

第六条 有下列情形之一的，公民、法人或者其他组织可以依照本法申请行政复

reconsideration under any one of the following circumstances:

- (1) an administrative sanction, such as warning, fine, confiscation of illegal gains or property, order to suspend production or business, suspension or rescission of license or permit, administrative attachment, which one refuses to accept;
- (2) a compulsory administrative measure, such as restriction of personal freedom or the sealing up, seizing or freezing of property, which one refuses to accept;
- (3) an administrative decision of altering, suspending or discharging certificates, such as a license, permit, credit certificate, credential, which one refuses to accept;
- (4) an administrative decision of confirming ownership or right to use of natural resources, such as land, mineral resources, rivers, forests, mountains, grasslands, unreclaimed land, beaches, maritime waters, which one refuses to accept;
- (5) infringement upon one's managerial decision-making power, which, one holds, has been perpetrated by an administrative organ;
- (6) cases where an administrative organ, which has altered and nullified one's agricultural contract, is considered to have infringed upon one's rights and interests;
- (7) cases where an administrative organ is considered to have illegally raised funds, levied property, apportioned charge, or demanded the performance of duties;
- (8) cases where an administrative organ is considered to have illegally handled issuing a certificate, such as a permit, license, credit certificate, or credential, or examining and approving or registering relative items, which one considers oneself legally qualified to apply for;
- (9) cases where an administrative organ is considered to have failed to perform its statutory duty, according to law, of protecting one's rights of the person and of property, and one's rights to receive education, as one has applied for;
- (10) cases where an administrative organ is considered to have failed to issue a pension, social insurance money or minimum maintenance fee for living according to law; and
- (11) cases in which other specific administrative acts of an administrative organ are considered to have infringed upon other lawful rights and interests.

Article 7 If a citizen, legal person or any other organization considers any of the following provisions, which is the basis of a specific administrative act of an administrative organ, to be illegal, he or it may, when filing an application for administrative reconsideration on a specific administrative act, file an application to the administrative reconsideration organ for reviewing the said provisions:

- (1) provisions of departments under the State Council;

议:

(一) 对行政机关作出的警告、罚款、没收违法所得、没收非法财物、责令停产停业、暂扣或者吊销许可证、暂扣或者吊销执照、行政拘留等行政处罚决定不服的;

(二) 对行政机关作出的限制人身自由或者查封、扣押、冻结财产等行政强制措施决定不服的;

(三) 对行政机关作出的有关许可证、执照、资质证、资格证等证书变更、中止、撤销的决定不服的;

(四) 对行政机关作出的关于确认土地、矿藏、水流、森林、山岭、草原、荒地、滩涂、海域等自然资源的所有权或者使用权的决定不服的;

(五) 认为行政机关侵犯合法的经营自主权的;

(六) 认为行政机关变更或者废止农业承包合同, 侵犯其合法权益的;

(七) 认为行政机关违法集资、征收财物、摊派费用或者违法要求履行其他义务的;

(八) 认为符合法定条件, 申请行政机关颁发许可证、执照、资质证、资格证等证书, 或者申请行政机关审批、登记有关事项, 行政机关没有依法办理的;

(九) 申请行政机关履行保护人身权利、财产权利、受教育权利的法定职责, 行政机关没有依法履行的;

(十) 申请行政机关依法发放抚恤金、社会保险金或者最低生活保障费, 行政机关没有依法发放的;

(十一) 认为行政机关的其他具体行政行为侵犯其合法权益的。

第七条 公民、法人或者其他组织认为行政机关的具体行政行为所依据的下列规定不合法, 在对具体行政行为申请行政复议时, 可以一并向行政复议机关提出对该规定的审查申请:

(一) 国务院部门的规定;

(二) 县级以上地方各级人民政府及其

(2) provisions of local people's governments at or above the county level and their departments;

(3) provisions of people's governments of towns or townships.

The provisions set forth in the preceding paragraph do not include rules of departments and commissions under the State Council, and local people's governments. Review on rules shall be handled according to relevant laws and administrative regulations.

Article 8 If an administrative sanction or any other personnel disposition by an administrative organ is refused to accept, appeal may be made according to the relevant provisions of laws and administrative regulations.

If mediation or any other disposition on a civil dispute undertaken by an administrative organ is refused to accept, an application for arbitration may be made or a lawsuit may be brought before a people's court.

Chapter III Application of Administrative Reconsideration

Article 9 Any citizen, legal person or any other organization, who considers that a specific administrative act has infringed upon his or its lawful rights and interests, may file an application for administrative reconsideration within 60 days from the day when he or it knows the specific administrative act, except that the time limit prescribed in laws exceeds 60 days.

If the time limit prescribed by law is delayed due to force majeure or other special reasons, the time limit shall be accounted continuously from the day when the obstacle is removed.

Article 10 Any citizen, legal person or any other organization that files an application for administrative reconsideration in accordance with this Law is an applicant.

If a citizen who has the right to apply for administrative reconsideration is deceased, his near relatives may apply for administrative reconsideration. If a citizen who has the right to apply for administrative reconsideration is incompetent or with limited capacity for civil conduct, his statutory agent may apply for administrative reconsideration on behalf him. If legal person, or any other organization, that has the right to apply for administrative reconsideration terminates, the legal person or any other organization that succeeds to its rights may apply for administrative reconsideration.

Any other citizen, legal person or any other organization that has an interest in a specific administrative act, for the administrative reconsideration of which an application has already been filed may, file a request for participation in the administrative reconsideration as a third party.

If a citizen, legal person or any other organization refuses to accept a

work department's provision;

(三) 乡、镇人民政府的规定。

前款所列规定不含国务院部、委员会规章和地方人民政府规章。规章的审查依照法律、行政法规办理。

第八条 不服行政机关作出的行政处分或者其他人处理决定的,依照有关法律、行政法规的规定提出申诉。

不服行政机关对民事纠纷作出的调解或者其他处理,依法申请仲裁或者向人民法院提起诉讼。

第三章 行政复议申请

第九条 公民、法人或者其他组织认为具体行政行为侵犯其合法权益的,可以自知道该具体行政行为之日起六十日内提出行政复议申请;但是法律规定的申请期限超过六十日的除外。

因不可抗力或者其他正当理由耽误法定申请期限的,申请期限自障碍消除之日起继续计算。

第十条 依照本法申请行政复议的公民、法人或者其他组织是申请人。

有权申请行政复议的公民死亡的,其近亲属可以申请行政复议。有权申请行政复议的公民为无民事行为能力人或者限制民事行为能力人的,其法定代理人可以代为申请行政复议。有权申请行政复议的法人或者其他组织终止的,承受其权利的法人或者其他组织可以申请行政复议。

同申请行政复议的具体行政行为有利害关系的其他公民、法人或者其他组织,可以作为第三人参加行政复议。

公民、法人或者其他组织对行政机关的具体行政行为不服申请行政复议的,作出具体行政行为的行政机关是被申请人。

申请人、第三人可以委托代理人代为参

specific administrative act undertaken by an administrative organ and applies for administrative reconsideration, the said administrative organ that undertook the specific administrative act is the respondent of the application.

The applicant and the third party may delegate agent(s) to participate in the administrative reconsideration.

Article 11 An applicant may apply for administrative reconsideration in written or in oral. If an applicant apply for administrative reconsideration in oral, the administrative reconsideration organ shall transcribe fundamental facts of the applicant, claims of the administrative reconsideration, and main facts, grounds and time on which the application for administrative reconsideration is based.

Article 12 An applicant, who refuses to accept a specific administrative act of the departments under local people's governments at or above the county level may apply for administrative reconsideration to the people's government at the same level; an applicant may also apply for administrative reconsideration to the competent authority at the next higher level.

An applicant, who refuses to accept a specific administrative act of an administrative organ, who carries out vertical management system, such as Customs, banking, tax collection, foreign exchange control, or by a State security organ, shall apply for administrative reconsideration to the competent authority at the next higher level.

Article 13 A citizen, legal person, or any other organization that refuses to accept a specific administrative act of local people's governments at various levels shall apply for administrative reconsideration to the local people's government at the next higher level.

An applicant who refuses to accept a specific administrative act of a local people's government at the county level, which belongs to a dispatched organ legally established by a people's government of a province or an autonomous region, shall apply for administrative reconsideration to the dispatched organ.

Article 14 A citizen, legal person, or any other organization that refuses to accept a specific administrative act of a department under the State Council, or the people's government of a province, an autonomous region, or a municipality directly under the Central Government, shall apply for administrative reconsideration to the department under the State Council, or the people's government of the province, the autonomous region, or the municipality directly under the Central Government that undertook the specific administrative act. The applicant who refuses to accept the administrative reconsideration decision may bring a suit before a people's court; or apply to the State Council for a ruling, and the State Council shall

加行政复议。

第十一条 申请人申请行政复议，可以书面申请，也可以口头申请；口头申请的，行政复议机关应当当场记录申请人的基本情况、行政复议请求、申请行政复议的主要事实、理由和时间。

第十二条 对县级以上地方各级人民政府工作部门的具体行政行为不服的，由申请人选择，可以向该部门的本级人民政府申请行政复议，也可以向上一级主管部门申请行政复议。

对海关、金融、国税、外汇管理等实行垂直领导的行政机关和国家安全机关的具体行政行为不服的，向上一级主管部门申请行政复议。

第十三条 对地方各级人民政府的具体行政行为不服的，向上一级地方人民政府申请行政复议。

对省、自治区人民政府依法设立的派出机关所属的县级地方人民政府的具体行政行为不服的，向该派出机关申请行政复议。

第十四条 对国务院部门或者省、自治区、直辖市人民政府的具体行政行为不服的，向作出该具体行政行为的国务院部门或者省、自治区、直辖市人民政府申请行政复议。对行政复议决定不服的，可以向人民法院提起行政诉讼；也可以向国务院申请裁决，国务院依照本法的规定作出最终裁决。

make a final ruling according to the provisions of this Law.

Article 15 A citizen, legal person, or any other organization, who refuses to accept a specific administrative act of an administrative organ or an organization, except for the administrative organs prescribed in Articles 12, 13, and 14 of this Law, shall apply for administrative reconsideration in accordance with the following provisions:

(1) an applicant, who refuses to accept a specific administrative act of a dispatched organ established by a local people's government at or above the county level, may apply for administrative reconsideration to the people's government that established the dispatched organ;

(2) an applicant, who refuses to accept a specific administrative act of a dispatched organ, established by departments under governments in accordance with the provisions in laws, regulations or rules, in its own name, shall apply for administrative reconsideration to the department who established the dispatched organ, or the local people's government at the same level with the department;

(3) an applicant who refuses to accept a specific act of an organization authorized by laws or regulations shall respectively apply for administrative reconsideration to the local people's government, the department under a local people's government, or the department under the State Council, who is directly in charge of the organization;

(4) an applicant who refuses to accept a specific act of two or more than two administrative organs in their common name shall apply for administrative reconsideration to their common administrative organ at a higher level;

(5) an applicant who refuses to accept a specific act of an abolished administrative organ shall apply for administrative reconsideration to the administrative organ at the next higher level than the administrative organ that carries on the exercise of functions and powers of the abolished organ.

Under one of the circumstances listed in the preceding paragraphs, the applicant may also apply for administrative reconsideration to the local people's government, in the locality of the specific administration act, at county level, and the local people's government at county level accepting the application shall handle the administrative reconsideration in accordance with the provisions of Article 18 of this Law.

Article 16 If a citizen, legal person or any other organization applies for administrative reconsideration, and an administrative reconsideration organ accepts the application in accordance with laws, or if, in accordance with relevant provisions of laws or regulations, he or it shall first apply to an administrative reconsideration organ for administrative reconsideration and then bring an administrative suit before a people's court, if he or it refuses to accept the reconsideration decision, he or it shall not bring an administrative suit before a people's court within the

第十五条 对本法第十二条、第十三条、第十四条规定以外的其他行政机关、组织的具体行政行为不服的，按照下列规定申请行政复议：

（一）对县级以上地方人民政府依法设立的派出机关的具体行政行为不服的，向设立该派出机关的人民政府申请行政复议；

（二）对政府工作部门依法设立的派出机构依照法律、法规或者规章规定，以自己的名义作出的具体行政行为不服的，向设立该派出机构的部门或者该部门的本级地方人民政府申请行政复议；

（三）对法律、法规授权的组织的具体行政行为不服的，分别向直接管理该组织的地方人民政府、地方人民政府工作部门或者国务院部门申请行政复议；

（四）对两个或者两个以上行政机关以共同的名义作出的具体行政行为不服的，向其共同上一级行政机关申请行政复议；

（五）对被撤销的行政机关在撤销前所作出的具体行政行为不服的，向继续行使其职权的行政机关的上一级行政机关申请行政复议。

有前款所列情形之一的，申请人也可以向具体行政行为发生地的县级地方人民政府提出行政复议申请，由接受申请的县级地方人民政府依照本法第十八条的规定办理。

第十六条 公民、法人或者其他组织申请行政复议，行政复议机关已经依法受理的，或者法律、法规规定应当先向行政复议机关申请行政复议、对行政复议决定不服再向人民法院提起行政诉讼的，在法定行政复议期限内不得向人民法院提起行政诉讼。

公民、法人或者其他组织向人民法院提

statutory time limit for administrative reconsideration.

If a citizen, legal person, or any other organization brings a suit before a people's court, and the people's court, in accordance with law, accepts the suit, he or it shall not apply for administrative reconsideration.

Chapter IV Acceptance of Administrative Reconsideration

Article 17 An administrative reconsideration organ shall, after receiving an application for administrative reconsideration, examine the application within five days, and it shall inform the applicant in written if it refuses to accept the application in circumstances where the application for administrative reconsideration does not comply with the provisions in this Law; it shall inform the applicant to apply to the relative administrative reconsideration organ if the application, not within the scope of administrative reconsideration applications acceptable to this organ, comply with the provisions in this Law.

Except for the provisions in the preceding paragraph, an administrative reconsideration organ shall be considered to accept the administrative reconsideration application from the day when the office responsible for legal affairs receives the application.

Article 18 The people's government that, according to the provisions prescribed in the second paragraph of Article 15 of this Law, receives an administrative reconsideration application shall transfer an administrative reconsideration application that, according to the first paragraph of Article 15 of this Law, shall be accepted by another administrative reconsideration organ to the relative administrative reconsideration organ and inform the applicant within seven days from the day when it receives the administrative application. The administrative reconsideration organ that receives the transferred application shall handle it in accordance with the provisions of Article 17 of this Law.

Article 19 If, in accordance with relevant laws or regulations, a citizen, legal person or any other organization shall first apply to an administrative reconsideration organ for administrative reconsideration and then bring a suit before a people's court, the administrative reconsideration organ refuses to accept the application or fails to make a decision on the expiration of the time limit, the applicant may, in accordance with law, bring a suit before a people's court from the day when he or it receives a written refusal-of-acceptance decision or within 15 days after the time limit for administrative reconsideration expires.

Article 20 If a citizen, legal person, or any other organization applies to an administrative reconsideration organ for administrative reconsideration according to law, and the administrative reconsideration organ refuses to accept the application without due reasons, administrative organs at the

起行政诉讼，人民法院已经依法受理的，不得申请行政复议。

第四章 行政复议受理

第十七条 行政复议机关收到行政复议申请后，应当在五日内进行审查，对不符合本法规定的行政复议申请，决定不予受理，并书面告知申请人；对符合本法规定，但是不属于本机关受理的行政复议申请，应当告知申请人向有关行政复议机关提出。

除前款规定外，行政复议申请自行政复议机关负责法制工作的机构收到之日起即为受理。

第十八条 依照本法第十五条第二款的规定接受行政复议申请的县级地方人民政府，对依照本法第十五条第一款的规定属于其他行政复议机关受理的行政复议申请，应当自接到该行政复议申请之日起七日内，转送有关行政复议机关，并告知申请人。接受转送的行政复议机关应当依照本法第十七条的规定办理。

第十九条 法律、法规规定应当先向行政复议机关申请行政复议、对行政复议决定不服再向人民法院提起行政诉讼的，行政复议机关决定不予受理或者受理后超过行政复议期限不作答复的，公民、法人或者其他组织可以自收到不予受理决定书之日起或者行政复议期满之日起十五日内，依法向人民法院提起行政诉讼。

第二十条 公民、法人或者其他组织依法提出行政复议申请，行政复议机关无正当理由不予受理的，上级行政机关应当责令其受理；必要时，上级行政机关也

higher level shall order it to accept the application and may also, if necessary, accept the application directly.

Article 21 During the course of administrative reconsideration, execution of the specific administrative act shall not be suspended. Execution of the specific administrative act may be suspended under one of the following circumstances:

- (1) where suspension of execution is deemed necessary by the applied;
- (2) where suspension of execution is deemed necessary by the administrative reconsideration organ;
- (3) where suspension of execution is decided by the administrative reconsideration organ at the request of the applicant because the administrative reconsideration organ considers the request to be reasonable;
- (4) where suspensions of execution is required by the provisions of laws.

Chapter V Decision of Administrative Reconsideration

Article 22 Administrative reconsideration shall, in principle, examine the application in written. Except for the circumstances where the applicant makes a require or the office responsible for legal affairs of the administrative reconsideration organ deems it necessary, the administrative reconsideration organ may investigate facts among the organizations and citizens concerned and listen to the views of the applicant, the respondent of the application, and the third party.

Article 23 The office responsible for legal affairs of the administrative reconsideration organ shall send a duplicate of the application form for administrative reconsideration or a copy of the transcript of the administrative reconsideration application to the respondent of the application within 7 days from the day of acceptance of the application for administrative reconsideration. The respondent of the application shall reply in written within 10 days from the day of the receipt of the duplicate of the application form or the copy of the transcript of acceptance, and provides the evidence, grounds, and other relevant documents, on the basis of which the specific administrative act has been undertaken. The applicant and the third party may consult the reply in written and the evidence, grounds, and other relevant materials, on the basis of which the specific administrative act has been undertaken, and the administrative reconsideration organ shall not refuse the requirement except that those involve State secrets, business secrets, or the private affairs of individuals.

Article 24 In the proceeding of administrative reconsideration, the respondent of the application shall not collect evidence from the applicant and other organizations or individuals concerned by himself.

可以直接受理。

第二十一条 行政复议期间具体行政行为不停止执行；但是，有下列情形之一的，可以停止执行：

- （一）被申请人认为需要停止执行的；
- （二）行政复议机关认为需要停止执行的；
- （三）申请人申请停止执行，行政复议机关认为其要求合理，决定停止执行的；
- （四）法律规定停止执行的。

第五章 行政复议决定

第二十二条 行政复议原则上采取书面审查的办法，但是申请人提出要求或者行政复议机关负责法制工作的机构认为有必要时，可以向有关组织和人员调查情况，听取申请人、被申请人和第三人的意见。

第二十三条 行政复议机关负责法制工作的机构应当自行政复议申请受理之日起七日内，将行政复议申请书副本或者行政复议申请笔录复印件发送被申请人。被申请人应当自收到申请书副本或者申请笔录复印件之日起十日内，提出书面答复，并提交当初作出具体行政行为的证据、依据和其他有关材料。申请人、第三人可以查阅被申请人提出的书面答复、作出具体行政行为的证据、依据和其他有关材料，除涉及国家秘密、商业秘密或者个人隐私外，行政复议机关不得拒绝。

第二十四条 在行政复议过程中，被申请人不得自行向申请人和其他有关组织或者个人收集证据。

Article 25 Before a decision of administrative reconsideration is made, the applicant who applies for the withdrawal of the application for administrative reconsideration may withdraw his application after stating grounds, and the administrative reconsideration ceased in case of the withdrawal of the administrative reconsideration application.

Article 26 If the applicant applies for reviewing the relevant provisions listed in Article 7 of this Law, along with the application for administrative reconsideration, and the administrative reconsideration organ has the authority to handle the provisions, the administrative reconsideration organ shall make a decision in accordance with law within 30 days; if the administrative reconsideration organ has no authority to handle the provisions, it shall transfer, in accordance with the legal procedures, to the administrative organ who has the authority to handle them within 7 days. During the period of handling, the specific administrative act shall be suspended to execute.

Article 27 In examining a specific administrative act undertaken by the respondent of the application, the administrative reconsideration organ considers the grounds, on the basis of which the specific administrative act has been undertaken, are illegal, if the administrative reconsideration organ has the authority to handle them, the organ shall, in accordance with law, handle them within 30 days; if the administrative reconsideration organ has not authority to handle them, the organ shall transfer the application to the State organ who has authority to handle them within 7 days according to the legal procedure. During the period of handling, the specific administrative act shall be suspended to execute.

Article 28 The office responsible for legal affairs of an administrative reconsideration organ shall examine the specific administrative act undertaken by the respondent of the application, put forward its opinions and make the decision of administrative reconsideration after the approval of the responsible persons of the administrative reconsideration organ or the assent after the group discussion, in accordance with the following provisions:

- (1) if the facts are clearly ascertained by a specific administrative act, the evidence for the act is conclusive, the application of grounds is correct, the procedure is legal, and the content of the act is proper, the specific administrative reconsideration act shall be sustained by decision;
- (2) the applied who fails to perform the statutory duties shall be required to perform the duties within a fixed time by decision;
- (3) if a specific administrative act has been undertaken in one of the following circumstances, the act shall be annulled, altered, or confirmed as illegal by decision; if the specific administrative act is altered, or confirmed as illegal by decision, the applied may be ordered to undertake a specific administrative act anew within a fixed time:

第二十五条 行政复议决定作出前，申请人要求撤回行政复议申请的，经说明理由，可以撤回；撤回行政复议申请的，行政复议终止。

第二十六条 申请人在申请行政复议时，一并提出对本法第七条所列有关规定的审查申请的，行政复议机关对该规定有权处理的，应当在三十日内依法处理；无权处理的，应当在七日内按照法定程序转送有权处理的行政机关依法处理，有权处理的行政机关应当在六十日内依法处理。处理期间，中止对具体行政行为的审查。

第二十七条 行政复议机关在对被申请人作出的具体行政行为进行审查时，认为其依据不合法，本机关有权处理的，应当在三十日内依法处理；无权处理的，应当在七日内按照法定程序转送有权处理的国家机关依法处理。处理期间，中止对具体行政行为的审查。

第二十八条 行政复议机关负责法制工作的机构应当对被申请人作出的具体行政行为进行审查，提出意见，经行政复议机关的负责人同意或者集体讨论通过后，按照下列规定作出行政复议决定：

（一）具体行政行为认定事实清楚，证据确凿，适用依据正确，程序合法，内容适当的，决定维持；

（二）被申请人不履行法定职责的，决定其在一定期限内履行；

（三）具体行政行为有下列情形之一的，决定撤销、变更或者确认该具体行政行为违法；决定撤销或者确认该具体行政行为违法的，可以责令被申请人在一定期限内重新作出具体行政行为：

- 1．主要事实不清、证据不足的；
- 2．适用依据错误的；
- 3．违反法定程序的；

- a. ambiguity of essential facts, and inadequacy of evidence;
- b. erroneous application of grounds;
- c. violation of legal procedures;
- d. excess of authority or abuse of powers;
- e. obvious inappropriateness of the specific administrative act.

(4) if the respondent of the application fails to reply in written, or provide the evidence, grounds, and other relevant materials for a specific administrative act that has been undertaken, the specific administrative act shall be considered to have no evidence and grounds and be annulled by decision.

If an administrative reconsideration organ orders the respondent of the application to undertake a specific administrative act anew, the respondent of the application must not, based on the same fact and reason, undertake a specific administrative act identical or essentially identical with the original specific administrative act.

Article 29 An applicant may put forward the request for administrative compensation along with applying for administrative reconsideration, and in cases where damages shall be paid in accordance with the relevant provisions of [the State Compensation Law](#), the administrative reconsideration organ shall make a decision to order the respondent of the application to pay the damages according to law, simultaneous with a decision to annul or alter the specific administrative act or to confirm the specific administrative act as illegal.

If in applying for administrative reconsideration, an applicant does not apply for administrative compensation, an administrative reconsideration organ shall order the respondent of the application to return the property, abolish the measures of sealing up, seizing, or freezing the property, or compensate the corresponding amount, simultaneous with making a decision to annul or alter a fine, or to annul a specific administrative act, such as illegally raising funds, confiscating property, levying property, apportioning charge, and sealing up, seizing, or freezing property.

Article 30 If a citizen, legal person, or any other organization considers that a specific administrative act of an administrative organ has infringed upon his or its ownership and right to use, which are acquired according to law, of natural resources, such as land, mineral resources, rivers, forests, mountains, grasslands, unreclaimed land, beaches, maritime waters, he or it shall first apply for administrative reconsideration and then bring a suit before a people's court according to laws if he or it refuses to accept the administrative reconsideration decision.

According to the decisions of the State Council or the people's governments of provinces, autonomous regions and municipalities directly under the Central Government to prospect and confirm or adjust administrative divisions into districts, or to requisition lands, an administrative reconsideration decision, which is made by the people's

- 4. 超越或者滥用职权的;
- 5. 具体行政行为明显不当的。

(四) 被申请人不按照本法第二十三条的规定提出书面答复、提交当初作出具体行政行为的证据、依据和其他有关材料的, 视为该具体行政行为没有证据、依据, 决定撤销该具体行政行为。

行政复议机关责令被申请人重新作出具体行政行为的, 被申请人不得以同一的事实和理由作出与原具体行政行为相同或者基本相同的具体行政行为。

第二十九条 申请人在申请行政复议时可以一并提出行政赔偿请求, 行政复议机关对符合[国家赔偿法](#)的有关规定应当给予赔偿的, 在决定撤销、变更具体行政行为或者确认具体行政行为违法时, 应当同时决定被申请人依法给予赔偿。

申请人在申请行政复议时没有提出行政赔偿请求的, 行政复议机关在依法决定撤销或者变更罚款, 撤销违法集资、没收财物、征收财物、摊派费用以及对财产的查封、扣押、冻结等具体行政行为时, 应当同时责令被申请人返还财产, 解除对财产的查封、扣押、冻结措施, 或者赔偿相应的价款。

第三十条 公民、法人或者其他组织认为行政机关的具体行政行为侵犯其已经依法取得的土地、矿藏、水流、森林、山岭、草原、荒地、滩涂、海域等自然资源的所有权或者使用权的, 应当先申请行政复议; 对行政复议决定不服的, 可以依法向人民法院提起行政诉讼。

根据国务院或者省、自治区、直辖市人民政府对行政区划的勘定、调整或者征用土地的决定, 省、自治区、直辖市人民政府确认土地、矿藏、水流、森林、山岭、草原、荒地、滩涂、海域等自然资源的所有权或者使用权的行政复议决

governments of provinces, autonomous regions and municipalities directly under the Central Government, to confirm ownership and right to use of natural resources, such as land, mineral resources, rivers, forests, mountains, grasslands, unreclaimed land, beaches, maritime waters, is a final ruling.

Article 31 An administrative reconsideration organ shall make an administrative reconsideration decision within 60 days from the day of acceptance of application, except for the circumstances where the time of administrative reconsideration set in laws is shorter than 60 days. If circumstances are complex, and an administrative reconsideration organ fails to make a decision within the prescribed time limit, the responsible persons of the administrative reconsideration organ may approve an proper extension of the time limit within 30 days, and the extension of the time limit shall be informed to the applicant and the respondent of the application.

An administrative reconsideration organ that makes an administrative reconsideration decision shall draw up a written administrative reconsideration decision on which the organ shall stamp a seal. Once the written administrative reconsideration decision is served, the decision is instantly legally effective.

Article 32 The respondent of the application shall perform the administrative reconsideration decision. If the respondent of the application does not perform or delays performing the administrative reconsideration decision without due reasons, the administrative reconsideration organ or an relevant administrative organ at higher level shall order the respondent of the application to perform the decision within a fixed time.

Article 33 An applicant, who fails to bring a suit by the expiration of the time limit and does not perform an administrative reconsideration decision or an administrative reconsideration decision as final ruling, shall be disposed respectively according to the following provisions:

- (1) an administrative reconsideration decision to sustain a specific administrative act shall be executed compulsorily, in accordance with law, by an administrative organ that has undertaken the specific administrative act, or be applied to a people's court for compulsory execution;
- (2) an administrative reconsideration decision to alter a specific administrative act shall be executed compulsorily, in accordance with law, by the administrative reconsideration organ, or be applied to a people's court for compulsory execution.

Chapter VI Legal Liabilities

Article 34 If an administrative reconsideration organ, in violation of the

定为最终裁决。

第三十一条 行政复议机关应当自受理申请之日起六十日内作出行政复议决定；但是法律规定的行政复议期限少于六十日的除外。情况复杂，不能在规定的期限内作出行政复议决定的，经行政复议机关的负责人批准，可以适当延长，并告知申请人和被申请人；但是延长期限最多不超过三十日。

行政复议机关作出行政复议决定，应当制作行政复议决定书，并加盖印章。行政复议决定书一经送达，即发生法律效力。

第三十二条 被申请人应当履行行政复议决定。

被申请人不履行或者无正当理由拖延履行行政复议决定的，行政复议机关或者有关上级行政机关应当责令其限期履行。

第三十三条 申请人逾期不起诉又不履行行政复议决定的，或者不履行最终裁决的行政复议决定的，按照下列规定分别处理：

（一）维持具体行政行为的行政复议决定，由作出具体行政行为的行政机关依法强制执行，或者申请人民法院强制执行；

（二）变更具体行政行为的行政复议决定，由行政复议机关依法强制执行，或者申请人民法院强制执行。

第六章 法律责任

第三十四条 行政复议机关违反本法规

provisions of this Law, refuses to accept, without due reasons, an application for administrative reconsideration applied in accordance with law, or fails to transfer an application for administrative reconsideration according to the relevant provisions, or fails to make an administrative reconsideration decision within statutory time limit, the persons in charge directly responsible and the other directly responsible persons shall, according to law, be given administrative sanctions such as warning, demerit record, or heavy demerit record; if an administrative reconsideration organ still refuses to accept the administrative reconsideration application after being ordered to accept the application or transferring the application out in accordance with the relevant provisions causes serious consequences, they shall, according to law, be given administrative sanctions such as being demoted, being dismissed from post, or being discharged.

Article 35 If any staff member of an administrative reconsideration organ in administrative reconsideration activities, practices favoritism for personal interests or commits any other acts of jobbery and misfeasance, he shall, according to law, be given an administrative sanction such as warning, demerit record or heavy demerit record; if the circumstance is serious, he shall, according to law, be given an administrative sanction such as being demoted, being dismissed from post, or being discharged; if a crime is constituted, he shall be subject to criminal according to law.

Article 36 If the respondent of the application, in violation the provisions of this Law, fails to reply in written or fails to provide evidence, grounds, and other relevant materials for a specific administrative act, or obstructs or disguised obstructs a citizen, legal person or any other organization to apply for administrative reconsideration, the persons in charge directly responsible and the other directly responsible persons shall, according to law, be given administrative sanctions such as warning, demerit record, heavy demerit record; anyone who conduct retaliation shall, according to law, be given an administrative sanction such as being demoted, or being dismissed from post, being discharged; anyone who commits a crime shall be subject to criminal liabilities according to law.

Article 37 If the respondent of the application fails to perform or delays, without due reasons, performing an administrative reconsideration decision, the persons in charge directly responsible and the other directly responsible persons shall, according to law, be given administrative sanctions such as warning, demerit record, or heavy demerit record; if the respondent of the application still refuses to perform after being ordered to perform, they shall, according to law, be given administrative sanction such as being demoted, being dismissed from post, or being discharged.

Article 38 If an office responsible for legal affairs of an administrative

定，无正当理由不予受理依法提出的行政复议申请或者不按照规定转送行政复议申请的，或者在法定期限内不作出行政复议决定的，对直接负责的主管人员和其他直接责任人员依法给予警告、记过、记大过的行政处分；经责令受理仍不受理或者不按照规定转送行政复议申请，造成严重后果的，依法给予降级、撤职、开除的行政处分。

第三十五条 行政复议机关工作人员在行政复议活动中，徇私舞弊或者有其他渎职、失职行为的，依法给予警告、记过、记大过的行政处分；情节严重的，依法给予降级、撤职、开除的行政处分；构成犯罪的，依法追究刑事责任。

第三十六条 被申请人违反本法规定，不提出书面答复或者不提交作出具体行政行为的证据、依据和其他有关材料，或者阻挠、变相阻挠公民、法人或者其他组织依法申请行政复议的，对直接负责的主管人员和其他直接责任人员依法给予警告、记过、记大过的行政处分；进行报复陷害的，依法给予降级、撤职、开除的行政处分；构成犯罪的，依法追究刑事责任。

第三十七条 被申请人不履行或者无正当理由拖延履行行政复议决定的，对直接负责的主管人员和其他直接责任人员依法给予警告、记过、记大过的行政处分；经责令履行仍拒不履行的，依法给予降级、撤职、开除的行政处分。

第三十八条 行政复议机关负责法制工作

reconsideration organ finds the circumstances, such as refusing to accept an application for administrative reconsideration without due reasons, failing to make an administrative reconsideration decision within a prescribe time limit, practicing favoritism for personal interests attacking an applicant in retaliation, or failing to perform an administrative reconsideration decision, the Institute shall put forward a proposal to a relevant administrative organ, and the relevant administrative organ shall deal with the circumstances in accordance with the provisions of this Law, the relevant laws and administrative regulations.

Chapter VII Supplementary Provisions

Article 39 An administrative reconsideration organ shall not charge any fees for accepting an application for administrative reconsideration to an applicant. Fees for administrative reconsideration shall be absorbed into administrative fees of the administrative reconsideration organ and be guaranteed by the government budget at the same level.

Article 40 The calculation of administrative reconsideration period and the serving of administrative reconsideration documents shall be executed according to the provisions of [the Civil Procedure Law](#) concerning the time and the serving.

"5 days" and "7 days" in the provisions related to administrative reconsideration period prescribed in this Law refers to workdays, excluding holidays.

Article 41 If foreigners, stateless persons, or foreign organizations are engaged in administrative reconsideration in the People's Republic of China, this Law shall be applied.

Article 42 If the provisions on administrative reconsideration in other laws promulgated before this Law comes into force do not conform with the provisions in this Law, the provisions in this Law shall prevail.

Article 43 This Law shall come into force on October 1, 1999. [Regulations on Administrative Reconsideration](#) promulgated by the State Council on December 24, 1990 and revised and re-promulgated by the State Council on October 9, 1994 shall simultaneously be annulled.

的机构发现有无正当理由不予受理行政复议申请、不按照规定的期限作出行政复议决定、徇私舞弊、对申请人打击报复或者不履行行政复议决定等情形的，应当向有关行政机关提出建议，有关行政机关应当依照本法和有关法律、行政法规的规定作出处理。

第七章 附则

第三十九条 行政复议机关受理行政复议申请，不得向申请人收取任何费用。行政复议活动所需经费，应当列入本机关的行政经费，由本级财政予以保障。

第四十条 行政复议期间的计算和行政复议文书的送达，依照[民事诉讼法](#)关于期间、送达的规定执行。

本法关于行政复议期间有关“五日”、“七日”的规定是指工作日，不含节假日。

第四十一条 外国人、无国籍人、外国组织在中华人民共和国境内申请行政复议，适用本法。

第四十二条 本法施行前公布的法律有关行政复议的规定与本法的规定不一致的，以本法的规定为准。

第四十三条 本法自1999年10月1日起施行。1990年12月24日国务院发布、1994年10月9日国务院修订发布的《[行政复议条例](#)》同时废止。