

Administrative Provisions on Document Making of Forestry Administrative Punishment Cases

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Administrative Provisions on Document Making of Forestry Administrative Punishment Cases

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Article 1 For the purposes of regulating the document making of forestry administrative punishment cases, correctly implementing the forestry administrative punishments and guaranteeing the legitimate rights and interests of the citizens, legal persons and other organizations, these Provisions are formulated in accordance with the Administrative Punishment Law of the People's Republic of China, Provisions on the Forestry Administrative Punishment Procedures and other provisions.

Article 2 These Provisions shall apply to the making of documents of forestry administrative punishment cases.

Article 3 The State Forestry Administration shall formulate uniform formats of the forestry administrative punishment cases. If the forestry administrative department of a province, autonomous region or municipality directly under the Central Government formulates a supplementary document format in light of the needs, it shall report to the State Forestry Administration for archival purposes. If it is otherwise provided in any law or regulation, the law or regulation shall prevail.

Article 4 The documents of forestry administrative punishment cases shall be printed, produced and managed in a centralized manner.

Where a document of forestry administrative punishment case is made by way of computer print and production, it shall conform to the prescribed format and shall be subject to the approval of the forestry administrative department of the province, autonomous region or municipality directly under the Central Government.

Article 5 When making a document of forestry administrative punishment case, the contents shall be complete and exact, the handwritings shall be clear, the characters shall be standard and the face of the file shall be clean.

Article 6 A document of forestry administrative punishment case shall be filled out by pen or signature pen. If it is made by computer, it may be filled out by way of printing.

When filling out a document of forestry administrative punishment case, if it is necessary to correct any handwriting error, one may mark it out with a straight line, then write down the correct content above or next to it, finally affix a seal for the exclusive use of revision to the revision place or the signature or seal of the party concerned.

Article 7 If the first page of a forestry administrative punishment case is not enough, a page (some pages) may be added. The added page (pages) shall be under the seal or signature of the party concerned.

Article 8 After the forestry administrative punishment inquiry transcripts, survey and inspection transcripts, hearing transcripts and other documents are given to the party concerned on the spot for check and reading or after they are read out in the presence of the party concerned, the party concerned shall write down the wording “the aforesaid transcripts are true” on the transcripts and sign his name for confirmation. If the party concerned considers that there is any omission or error in the record, he shall make a supplement or revision and shall sign his name on or affix his seal to the supplement or revision.

Article 9 shall be as follows:

(1) For the column of “nature of case”, one shall fill in the category of the case, which concerns the determination of the nature of the act in violation of the forestry laws, rules and regulations, such as case of illegal felling of trees, case of timber transportation without timber transportation certificate, etc.

(2) For the column of “brief descriptions about the case”, one shall, according to the materials about the source of the case or the information upon investigation for obtaining the evidence and information upon examination and determination, use accurate and concise words to briefly describe the time, place, parties concerned, course, consequences and other information about the case.

Article 10 A decision of on-the-spot forestry administrative punishment shall apply to a case of violation with simple details, clear facts and irrefutable evidence for which a decision of on-the-spot forestry administrative punishment may be made on the spot.

For the column of “facts of violation”, one shall fill in the time, place where the violation is committed or the consequences of the violation is caused, as well as the concise and brief descriptions about the facts of violation.

When filling in the applicable laws, rules and regulations, one shall list the concrete articles, and omit the concrete contents of the articles.

The punishment contents shall be detailed and definite.

A decision of on-the-spot forestry administrative punishment may bear the seal of the punishment organ in advance.

Article 11 The acceptance register form of forestry administrative punishment case is a document that shall, in accordance with the laws, rules and regulations, be submitted by the forestry administrative department to the person-in-charge of the administrative organ for deciding whether to accept a case of suspected violation.

For the column of “source of case”, one shall faithfully fill in words such as “found by this organ, tipped off by an entity or by the public, complained about by the victim, transferred by the relevant entity, arranged by the superior organ, confessed by the violator on his own initiative, etc.”

For the column of “opinions of the case acceptance party”, the opinions of the party on placing the case on file or not placing the case on file according to the details of the case shall be filled out, which shall bear the signature and shall be indicated with the date on which the opinions are put forward.

For the column of “instructions of the person-in-charge of the administrative organ”, the instructions on placing the case on file or not placing the case on file given by the person-in-charge of the administrative organ after examining the opinions of the case acceptance party shall be filled out, which shall bear his signature and shall be indicated with the date on which the instructions are given.

Article 12 The register and preservation notice of forestry administrative punishment is a document by which the forestry administrative department registers and preserves the proofs upon approval of the

person-in-charge of the administrative organ when it handles a forestry administrative punishment case and it believes the proofs may possibly be lost or difficult to obtain in the future.

For the column of “the registered preserver”, the contents filled in shall be complete and detailed so as to facilitate the lookup.

The reason for register and preservation is that the “articles” held by the registered preserver are important proofs involved in the case and it is necessary to register and preserve them, which are based on the applicable law or regulation, i.e. the second paragraph of Article 37 of Administrative Punishment Law of the People’s Republic of China or Article 26 of the Provisions on the Forestry Punishment Procedures.

For the column of “articles”, the name, number, computation entity, register and preservation place shall be concrete and definite.

The seal of the register and preservation entity shall be the seal of the administrative organ or of the organization empowered by the law or regulation.

Article 13 The inquiry transcripts of forestry administrative punishment shall be the documents that are made when inquiring of the party concerned, testifier and other relevant persons about the pertinent information so as to find out the facts of the case and collect the proofs.

The “inquiry contents” shall record all the relevant information offered by the inquirers, including the time, place, course, causal relationship and consequences of the case. The transcripts shall be accurate and genuine, shall not use presumptive words, of which those relating to the main facts and important clues of the case shall be completely recorded.

Article 14 The survey and inspection transcripts of forestry administrative punishment shall be documents of the written records of survey and inspection over the relevant place and articles made by forestry administrative law enforcers.

For the column of “survey and inspection place”, one shall fill in the concrete locality and orientation. For the column of “survey, inspection matters and results”, one shall make an all-around and objective record according to the sequential order of survey and inspection, and shall record the location of the spot, surrounding environment, status of the spot and other relevant information in detail.

Article 15 The forestry administrative punishment opinions are documents about the concrete opinions put forward by the forestry administrative law enforcers on how to handle the case.

For the column of “law enforcers”, the names of the persons responsible for handling the case shall be filled out. The number of law enforcers shall not be less than two.

For the column of “punishment time”, one shall fill in the time period from the case acceptance date to the date on which the punishment opinions are put forward.

For the column of “opinions of the legal affairs institution”, one shall fill in the concrete examination opinions, which shall be signed by the examiner or shall be under the seal of the legal affairs institution.

Article 16 A forestry administrative punishment decision shall be a document about the administrative punishment decision that is made in accordance with the law and will be served upon the person who violates any forestry law, rule or regulation.

For the item of “proofs” under the column of “facts and proofs of violation”, one shall fill in the categories of the proofs obtained through investigation.

For the laws, rules and regulations as the basis, one shall specify the article, paragraph, item and sub-item.

For the decided administrative punishments, one shall take down the primary and secondary punishments and state the type and amount of the punishments.

For the way to pay the monetary penalty, one shall fill in the name of designated bank and the bank account, shall not keep it blank except for the monetary penalty to be paid on the on the spot.

For the name of the administrative reconsideration organ, one shall fill in its full name. The time limit for initiating a lawsuit in the people's court of the place where the administrative organ is located shall be 3 months, but if it is otherwise provided for by any law, the law shall prevail.

For the column of "responsible persons", one shall fill in the names of 2 or more forestry law administrative enforcers who are responsible for the investigation and punishment of the case.

Article 17 An acknowledgement of receipt of a forestry administrative punishment document is a legal document that proves that the party concerned has received the decision of on-the-spot forestry administrative punishment delivered to him or the decision of forestry administrative punishment is delivered to or served upon him.

With regard to the service by leaving the relevant document at the residence or workplace of the served party or his agent because the served party or his agent refuses to accept it or refuses to sign or affix his seal to the acknowledgement of receipt, and services by entrusted delivery, mail, third party and announcement, one shall give a clear indication in the column of "Remarks".

Article 18 A receipt of in-kind confiscation under forestry administrative punishment is a document recording the in-kind confiscation of the punished party according to the decision of administrative punishment made in accordance with the law.

The contents of confiscation shall clearly record the names, specifications and quantities of the objects.

Article 19 A timber detainment notice is a document by which the timber inspection station responsible for inspecting the timber transportation detains the timber transported without timber transportation certificate.

Article 20 An authorization of forestry administrative punishment is a document by which the forestry administrative department, in accordance with the relevant laws, rules and regulations and according to its statutory functions, authorizes an organization that meets the requirements of Article 19 of the Administrative Punishment Law of the People's Republic of China to execute the forestry administrative punishment.

For the contents of authorization, one shall fill in articles, paragraphs, items and sub-items of the laws, rules and regulations on which they are based.

Article 21 A notification of the right to hearing of a forestry administrative punishment is a document that informs the party concerned that he has the right to request for a hearing before an administrative punishment decision is made for a forestry administrative punishment case to which the hearing procedures are applicable.

The notification shall specify the illegal act, the articles of the laws, rules and regulations that are violated, legal basis for the to-be-made administrative punishment decision, the type and amount of administrative punishment, as well as the address, post code, telephone number and contact person of

the hearing organ.

Article 22 The transcripts of application for a hearing of forestry administrative punishment is a document that records the hearing request of the party concerned made after the receipt of the notification of the right to hearing of a forestry administrative punishment, and the facts and grounds for the hearing application.

Article 23 The notice of rejection to a forestry administrative punishment hearing case is a document that the forestry administrative department decides to reject the application for a hearing of forestry administrative punishment because it considers that the hearing requirements are not met after it examines the transcripts of application for a hearing of forestry administrative punishment.

Article 24 A notice of hearing is a document of written notice which is, at the request of the party concerned who has the right to request for hearing, issued by the forestry administrative department to the party concerned about the decision to hold a hearing.

Article 25 The transcripts of a forestry administrative punishment hearing are documents that record the process and contents of the hearing.

For the “agent”, one shall specify his name, sex, entity, etc.

For the “minutes of hearing”, the main facts and proofs put forward by the party concerned, the relevant ideas and proofs put forward by a third party, the authentication and survey results, the facts, evidence and administrative punishment suggestions put forward by the persons responsible for the case shall be specified.

Article 26 The present Provisions shall come into force as of July 1, 2005.