

Public Participation in Administrative Rulemaking  
—China's Practice and Development



# 公众参与行政立法 中国的实践与创新

主 编 袁曙宏

副主编 吴 浩 陈富智 李向东

中国法制出版社  
CHINA LEGAL PUBLISHING HOUSE

Public Participation in Administrative Rulemaking  
— China's Practice and Development

# 公众参与行政立法 中国的实践与创新

主 编 袁曙宏

副主编 吴 浩 陈富智 李向东



中国法制出版社

CHINA LEGAL PUBLISHING HOUSE

## 图书在版编目 (CIP) 数据

公众参与行政立法：中国的实践与创新/袁曙宏主编. —北京：中国法制出版社，2012. 6

ISBN 978 - 7 - 5093 - 3768 - 4

I. ①公… II. ①袁… III. ①行政法 - 立法 - 公民 - 参与管理 - 中国 - 文集 IV. ①D922. 104 - 53

中国版本图书馆 CIP 数据核字 (2012) 第 114510 号

责任编辑 郭善珊

封面设计 杨泽江

---

## 公众参与行政立法——中国的实践与创新

GONGZHONGCAN YU XINGZHENGLIFA——ZHONGGUODESHIJIAN YU  
CHUANGXIN

主编/袁曙宏

经销/新华书店

印刷/三河市紫恒印装有限公司

开本/880 × 1230 毫米 32

印张/ 12. 25 字数/ 258 千

版次/2012 年 7 月第 1 版

2012 年 7 月第 1 次印刷

---

中国法制出版社出版

书号 ISBN 978 - 7 - 5093 - 3768 - 4

定价：45. 00 元

北京西单横二条 2 号 邮政编码 100031

传真：66031119

网址：<http://www.zgfzs.com>

编辑部电话：66026587

市场营销部电话：66017726

邮购部电话：66033288

# 前 言

---

自党的十六大全面推进行政决策的公众参与制度以来，我国行政决策尤其是行政立法的公众参与发展迅速，无论是制度建设还是工作实践都取得了很大进展。

党的十七大报告在作出“全面落实依法治国基本方略，加快建设社会主义法治国家”战略部署的同时，明确提出立法工作“要坚持科学立法、民主立法”，“推进决策科学化、民主化，完善决策信息和智力支持体系，增强决策透明度和公众参与度，制定与人民群众利益密切相关的法律法规和公共政策原则上要公开听取意见”。2010年10月，国务院发布了《关于加强法治政府建设的意见》，强调要提高制度建设质量。行政立法要符合经济社会发展规律，充分反映人民意愿，着力解决经济社会发展中的普遍性矛盾和深层次问题，切实增强法律制度的科学性和可操作性。严格遵守法定权限和程序，完善公众参与行政立法的制度和机制，保证人民群众的意见得到充分表达、合理诉求和合法利益得到充分体现。

公众参与行政立法是贯彻党的思想路线和群众路线的必然要求，是切实提高立法质量的重要途径。公众参与行政立法不仅有利于政府了解民意、汇集民智，增进决策的科学化和民主化，而且有利于增进党和政府与人民群众之间的理解和互信。立法质量如何，取决于立法是否合乎客观规律、是否为大多数群众所拥护

以及能否解决实际问题。只有坚持走群众路线，不断推进科学立法、民主立法，提高公众有序参与的程度，才能体现人民共同意志、保障人民当家作主、维护人民根本利益；才能让人民群众了解和熟悉法律，促进人民群众对法律的尊崇，保证法律的顺利实施。

近年来，各地方各部门在公众参与行政立法的制度层面和实践层面进行了许多积极有益的探索和尝试，在推进立法公开、扩大公众参与方面迈出了较大步伐。在这个过程中，为推动政府法制工作的科学发展和改革创新，特别是促进公众参与行政立法的发展和完善，国务院法制办公室举办了系列公众参与行政立法国际研讨会。国务院各有关部门、全国省级政府法制机构和较大市政府法制机构的同志、国内外专家学者 350 余人对公众参与行政立法的重要理论和实践问题进行了深入讨论。与会者提交了有质量的论文或作了很好的发言，总结了近年来我国公众参与行政立法的制度建设和实践成就，反映了行政决策领域公众参与发展的深度和广度，分析了政府引导公众参与立法的特点，探讨了扩大公众参与和提高参与实效性的关系，比较集中地体现了当前对这个问题的研究成果，对推动公众参与行政立法理论创新、丰富行政立法实践、指导公众有序参与行政立法具有较好的参考价值。为了全面体现每位作者的观点和文责自负的精神，编者对各篇文章内容未做较大修改。

希望本书的出版，对各级政府法制机构及其工作人员以及社会各界了解、研究公众参与行政立法制度能够有所裨益。

编 者

2012 年 3 月于北京

# 目 录

---

## 前 言

/1

### 专题一 公众参与行政立法的历史和现状

中国行政立法公众参与制度的现状及展望

吴 浩 贾渭茜/3

规制过程中的公众参与

——国外制度和经验的观察 李向东 袁 亮 贾渭茜/13

广东推行公众参与行政立法的实践与前景 黄涛涛/25

公众参与行政立法的实践与思考 廖晓凌/33

创新立法工作机制 促进公众参与行政立法 黄岩生/40

滨海新区发展的立法实践与公众参与 雷颖君/46

关于加强公众参与立法制度建设的几点思考 郑 仲/51

关于公众参与行政立法的几点思考 周 勤/58

行政立法公众参与制度研究 王瑞林/63

我国公众参与的现状及趋势 王周户/70

### 专题二 公布征求意见的方法、程序和规则

建立健全法规规章草案公开征求意见制度 提高

政府立法工作透明度

陈富智/81

## 2 | 公众参与行政立法——中国的实践与创新

通过互联网开展公众参与行政立法的实践	孔祥清/87
论政府立法公众参与机制	林日华/101
关于行政立法公开征求意见的探索和思考	马太建/109
开门立法:光开“门”还远远不够	
——对《安徽省工资支付规定(草案)》公开征集 意见的实证分析	黄显鸿/117
公众通过新闻媒体参与政府立法的思考	石玉林/125
北京市政府立法过程中通过网络开展公众参与的 有关情况	张 童/133
法律是全体人对全体人的规定	
——对完善公众参与政府立法的制度和 机制再认识	杨近泉 杨泽鹏/141
关于行政立法中通过报纸、网络等方式公开征求 意见的方法、程序和规则的几点设想	秦少军/154
关于公众参与行政立法的几点思考	王复智/163

### 专题三 听证会的方法、程序和规则

#### 中国的行政立法听证制度

李岳德 李富成 陶 杨 倪 娜/171	
进一步完善我国立法听证制度之建议	张 任/187
浅析地方立法听证制度	黄 旻/192
关于行政立法听证程序的探讨	曾国兴/203
公众参与行政立法之渠道探析	傅 立/210
关于完善立法听证制度的几点思考	张丽娟 张兆军/217
行政立法听证的程序和规则初探	崔锦云/223
完善政府立法听证制度 切实提高政府立法质量	李光奇/231

## 中国行政立法听证制度的完善

——以扩大公众参与为视角

李 林 武立宏/235

## 关于立法听证制度的冷思考

杨海坤/249

## 行政立法听证会的方法、程序和规则

刘泽军/258

**专题四 公众参与有效性的保障和完善**

## 完善行政立法公众参与制度 提高公众参与实效性

任高民/267

## 保障公众参与行政立法有效性之建议

王起翔/275

## 公众参与行政立法培训研讨会发言材料

闫 滢/280

## 公众参与行政立法有效性的保障和完善

## ——以近年来上海市公众参与行政立法的

实践作法为例

管丽娟/286

## 公众参与行政立法激励机制探讨

高存山/293

## 公众参与行政立法有效性的保障和完善

赵晓光/301

## 你的健康,你的选择,我的责任

——公众参与卫生行政决策制度研究

王 琦/308

## 公众有效参与行政立法的制度构想

季 婕/319

## 浅谈公众参与行政立法有效性的保障和完善

鲁春霞/327

## 浅谈完善我国的行政立法动议制度

戴 燕/333

## 行政立法的公众参与机制探索与思考

冯延华/339

## 公众参与形式

王锡铨/345

## 立法后评估的“公众参与”模式

汪全胜/364

## 好制度如何落到实处

——促进行政立法中公众参与的几点思考

李 亚/374

## 后 记

/379



# Contents

---

## Introduction

/1

### **Theme 1** History and Current Situation of Public Participation in Administrative Rulemaking

Current Situation and Prospects of Public Participation in  
Administrative Decision – making in China

*Wu Hao and Jia Weiqian, Legislative  
Affairs Office of the State Council/3*

Public Participation in Regulatory Process – observations on  
Foreign systems and Experiences

*Li Xiangdong, Yuan Liang and Jia Weiqian, Legislative  
Affairs Office of the State Council/13*

Practice and Prospects of Public Participation in Administrative  
Rulemaking in Guangdong Public Participation in Regulatory  
Process

*Huang Taotao, Legislative Affairs Office of the People's  
Government of Guangdong Province/25*

Practice of and Reflections on Public Participation in  
Administrative Rulemaking

- Liao Xiaoling, Legislative Affairs Office of the People's  
Government of Jiangxi Province/33*
- Make Innovations in Administrative Rulemaking to Promote Public  
Participation  
*Huang Yansheng, Legislative Affairs Office of the People's  
Government of Fujian Province/40*
- Rulemaking and Public Participation in Development  
of Binhai New Area, Make Innovations in Administrative  
Rulemaking to Promote Public Participation  
*Lei Yingjun, Legislative Affairs Office of the People's  
Government of Tianjin Municipality/46*
- Some Reflections on Strengthening the System Building for  
Public Participation in Administrative Rulemaking  
*Zheng Zhong, Legislative Affairs Office of the People's  
Government of Shanxi Province/51*
- Some Reflections on Public Participation in Administrative  
Rulemaking  
*Zhou Qin, Legislative Affairs Office of the People's Government  
of Xinjiang Uygur Autonomous Region/58*
- A Study on Public Participation in Administrative Rulemaking  
*Wang Ruilin, Legislative Affairs Office of the People's Government  
of Chongqing Municipality/63*
- Current Situation and Trends of Public Participation in  
Administrative Rulemaking in China  
*Wang Zhouhu, Administrative Law School of Northwestern  
University of Political Science and Law/70*

## **Theme 2   Methods, Procedures and Rules for Publication of Drafts for Public Comments**

Establish and Improve the System for Publication of Draft

Regulations and Rules for Public Comments and Promote  
Transparency in Administrative Rulemaking

*Chen Fuzhi, Legislative Affairs Office of the State Council/81*

Practice of Promoting Public Participation in Administrative  
Rulemaking Through the Internet

*Kong Xiangqing, Legislative Affairs Office of the State Council/87*

On the Mechanism for Public Participation in Administrative  
Rulemaking

*Lin Rihua, Legislative Affairs Office of the People's  
Government of Guangxi Zhuang Autonomous Region/101*

Exploration of and Thoughts on Solicitation of Public  
Comments in Administrative Rulemaking

*Ma Taijian, Legislative Affairs Office of the People's  
Government of Jiangsu Province/109*

Open Rulemaking: Mere Opening is not Enough, A Case  
Study of Public Participation in Making Wage Payment  
Regulations in Anhui Province

*Huang Xianhong, Legislative Affairs Office of the  
People's Government of Anhui Province/117*

Thoughts on Promoting Public Participation in  
Administrative Rulemaking Through News Media

*Shi Yulin, Legislative Affairs Office of the People's  
Government of Hebei Province/125*

Public Participation in Administrative Rulemaking  
Through the Internet in Beijing

*Zhang Tong, Legislative Affairs Office of the People's  
Government of Beijing Municipality/133*

Laws are Made by All and for All – Rethinking on Systems  
& Mechanisms of Improving public participation in  
Regulatory Process

*Yang Jinquan & Yang Zepeng, Legislative Affairs Office  
of the People's Government of Shanxi Province/141*

Some Thoughts on the Methods, Procedures and Rules  
for Solicitation of Public Comments in Administrative  
Rulemaking Through Mass Media Such as Newspaper  
and the Internet

*Qin Shaoqun, Legislative Affairs Office of the People's  
Government of Yunnan Province/154*

Some Thoughts on Public Participation in Administrative  
Rulemaking

*Wang Fuzhi, Legislative Affairs Office of the People's  
Government of Funshun City, Liaoning Province/163*

### **Theme 3 Methods, Procedures and Rules for Public Hearing**

Public Hearing System in Administrative Rulemaking in China

*Li Yeude, Li Fucheng, Tao Yang and Ni Na, Legislative  
Affairs Office of the State Council/171*

Suggestions on Improving Public Hearing System in  
Administrative Rulemaking

*Zhang Ren, Legislative Affairs Office of the People's  
Government of Ningxia Hui Autonomous Region/187*

A Study on Public Hearing System in Local Administrative  
Rulemaking

*Huang Min, Legislative Affairs Office of the People's  
Government of Yunnan Province/192*

A Study on Public Hearing Procedures in Administrative  
Rulemaking

*Zeng Guoxing, Legislative Affairs Office of the People's  
Government of Hunan Province/203*

A Study on Channels of Public Participation in Administrative  
Rulemaking

*Fu Li, Legislative Affairs Office of the People's  
Government of Hubei Province/210*

Some Thoughts on Improving Public Hearing System in  
Administrative Rulemaking

*Zhang Lijuan, Administration Academy of Baicheng City  
of Jilin Province; Zhang Zhaojun, Legislative Affairs  
Office of the People's Government of Jilin Province/217*

A Preliminary Study on Procedures and Rules of Public  
Hearing in Administrative Rulemaking

*Cui Jinyun, Legislative Affairs Office of the People's  
Government of Gansu Province/223*

Improve Public Hearing System in Administrative Rulemaking  
for Better Rulemaking Quality

*Li Guangqi, Legislative Affairs Office of the People's  
Government of Chengdu City/231*

Make Improvement to China's Public Hearing System in  
Administrative Rulemaking ——From the Perspective  
of Expanding Public Participation

*Li Lin & Wu Lihong, Chinese Academy of Social Sciences/235*

Critical Thoughts on Public Hearing System in  
Administrative Rulemaking

*Yang Haikun, Law School of Suzhou University/249*

Methods, Procedures and Rules for Public Hearing in  
Administrative Rulemaking

*Liu Zejun, Constitution and Administrative Law Research  
Center of North China University of Technology/258*

## **Theme 4    Guarantee and Improvement of Effectiveness of Public Participation**

Improve Public Participation System in Administrative Rulemaking  
and Enhance the Effectiveness of Public Participation

*Ren Gaomin, Legislative Affairs Office of the People's  
Government of Ningxia Hui Autonomous Region/267*

Suggestions on Ensuring the Effectiveness of Public

Participation in Administrative Rulemaking

*Wang Qixiang, Legislative Affairs Office of the People's  
Government of Heilongjiang Province/275*

A Presentation for the Symposium of Public Participation  
in Administrative Rulemaking

*Yan Shi, Legal Affairs Department of the Ministry of Civil Affairs/280*

Guarantee and Improvement of the Effectiveness of Public

Participation in Administrative Rulemaking — A Case

Study on the Practice of Public Participation in Administrative  
Rulemaking in Shanghai Municipality in Recent Years

*Guan Lijuan, Legislative Affairs Office of the People's  
Government of Shanghai Municipality/286*

A Study on Incentive Mechanism for Public Participation in  
Administrative Rulemaking

*Gao Cunshan, Legislative Affairs Office of the People's  
Government of Shandong Province/293*

Guarantee and Improvement of the Effectiveness of Public

Participation in Administrative Rulemaking

*Zhao Xiaoguang, Legislative Affairs Office of the People's  
Government of Liaoning Province/301*

Your Health, Your Choice, My Responsibility—A Study on  
Public Participation in the Making of Public Health Policies

*Wang Qi, Policy and Legal Affairs Department  
of the Ministry of Health/308*

Proposals for Institutional Building for Effective Public

Participation in Administrative Rulemaking

*Ji Jie, Legislative Affairs Office of the People's  
Government of Hubei Province/319*

A Preliminary Study on Guarantee and Improvement of

Effectiveness of Public Participation in Administrative Rulemaking

*Lu Chunxia, Legislative Affairs Office of the People's  
Government of Henan Province/327*

A Preliminary Study on Improvement of the System of

Proposing Motions in Administrative Rulemaking

*Dai Yan, Legislative Affairs Office of the People's  
Government of Inner Mongolia Autonomous Region/333*

Exploration and Thoughts on Public Participation

Mechanism in Administrative Rulemaking

*Feng Yanhua, Legislative Affairs Office of the People's  
Government of Qinghai Province/339*

Methods of Public Participation

*Wang Xixin, Research and Support Center of Public  
Participation, Peking University/345*

Methods for Public Participation in Post - rulemaking Assessment

*Wang Quansheng, Law School of  
Shandong University (Weihai) /364*

How to Make a Good System Effective——Opinions on

Promoting Public Participation in Administrative Rulemaking

*Li Ya, Administration and Economy School of  
Beijing Institute of Technology/374*

## 专题一 公众参与行政立法的历史和现状





