

C O M M E N T S

ANNUAL REVIEW OF CHINESE ENVIRONMENTAL LAW DEVELOPMENTS: 2024

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In China, the year 2024 witnessed further evolution of environmental protection and development of legislation and rulemaking. This mainly included adoption of the Energy Law of the People's Republic of China, revision of the Mineral Resources Law of the People's Republic of China, and adoption of a series of administrative regulations. This Comment summarizes some of the year's major developments.

I. Energy Law

To achieve high-quality development of the energy industry, the Standing Committee of the National People's Congress (NPC Standing Committee) adopted the Energy Law of the People's Republic of China on November 8, 2024.¹ It is a new addition to the series of national laws related to energy, including the Renewable Energy

Law,² the Energy Saving Law,³ the Coal Law,⁴ and the Electricity Law.⁵

The Energy Law covers all sources of energy. The term “energy” under this law refers to various resources from which useful energy may be obtained directly or indirectly through processing or conversion, including coal, petroleum, natural gas, nuclear, hydropower, wind, solar, biomass, geothermal, the ocean, thermal power, and hydrogen.⁶

China is the world's largest producer and consumer of energy, but for a long time, the country lacked a comprehensive basic law to prescribe national energy strategies and policies, clarify the functional status and the complementary or substitutional relationships of various types of energy, regulate rights and obligations related to energy, and promote coordination of legal rules on energy issues.

The main legislative purposes of the Energy Law are to promote high-quality development of energy, safeguard national energy security, promote green and low-carbon transformation and sustainable development of the economy and society, actively and steadily promote carbon peaking and carbon neutrality, and meet the needs of

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1. Energy Law of the People's Republic of China (promulgated by the NPC Standing Committee, Nov. 8, 2024, effective Jan. 1, 2025), 2024(6) STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 884-92 [hereinafter Energy Law].

2. Renewable Energy Law of the People's Republic of China (promulgated by the NPC Standing Committee, Feb. 28, 2005; amended by the NPC Standing Committee, Dec. 26, 2009; effective Jan. 1, 2006), 2010(1) STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 36-40.

3. Energy Saving Law of the People's Republic of China (promulgated by the NPC Standing Committee, Nov. 1, 1997; first revised by the NPC Standing Committee, Oct. 28, 2007; first amended by the NPC Standing Committee, July 2, 2016; second amendment by the NPC Standing Committee, Oct. 26, 2018; effective Apr. 1, 2008), 2018(6) STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 869-76.

4. Coal Law of the People's Republic of China (promulgated by the NPC Standing Committee, Aug. 29, 1996; first amended Aug. 27, 2009; second amendment Apr. 22, 2011; third amendment June 29, 2013; fourth amendment Nov. 7, 2016; effective Dec. 1, 1996), 2016(6) STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 1025-29.

5. Electricity Law of the People's Republic of China (promulgated by the Standing Committee, Dec. 28, 1995; first amended by the NPC Standing Committee, Aug. 27, 2009; second amendment Apr. 24, 2015; third amendment Dec. 29, 2018; effective Apr. 1, 1996), 2019(1) STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 129-35.

6. Energy Law, *supra* note 1, art. 2.

socialist modernization.⁷ For these purposes, the Energy Law balances economic development and environmental protection, and energy security and international cooperation. It calls for accelerated development of a system for dual control of total carbon emissions and intensity, and requires a transition to this system from the current dual control of total energy consumption and intensity.⁸ It can be labeled a “green energy law” for its emphasis on green or renewable energy and carbon peaking and neutrality.

The Energy Law is a comprehensive or framework legislation on energy issues. It provides major policies, fundamental principles, and key regulatory tools. It establishes a regulatory framework on energy issues by adding new rules, connecting with preexisting rules in other laws, and leaving space for further development of more detailed rules. Key regulatory tools of the Energy Law are as follows.

A. Energy Planning

Energy is an important material foundation and driving force for economic and social development, so energy shall be part of economic and social development at the national and local levels.⁹ Energy planning is an important regulatory tool for guiding development of the energy industry, arranging major engineering projects, allocating public resources, directing social capital investment, and formulating relevant policies. As to covered subject matter, energy planning includes comprehensive plans and sectoral plans. In terms of geographic coverage, energy planning includes national, regional, and provincial plans.¹⁰

The Energy Law requires coordination among various energy plans so that a well-positioned, clearly defined, functionally complementary, and unified energy planning system can be established. When formulating energy plans, the government should duly consider the needs of economic and social development, as well as the energy resource endowments, the characteristics of energy production and consumption, and the requirements for environmental protection.¹¹

In terms of the working mechanism, the Energy Law establishes a full-cycle management system for the preparation and implementation of energy planning, specifies the entities responsible for preparing different energy plans, and emphasizes that the planning process must fit with energy development. Additionally, it specifies the requirements for the approval, release, evaluation, and adjustment of energy plans.¹²

B. Supply and Consumption of Energy

Before adoption of the Energy Law, the Central Committee of the Communist Party of China (CPC) and the State

Council already called for transition to green and low-carbon energy and required that the proportion of non-fossil energy should reach around 25% by 2030 and greater than 80% by 2060. They also required enforcement agencies to make and implement medium- and long-term development targets for utilization of non-fossil energy.¹³ The requirement for the supply and consumption of green energy provided in the Energy Law is in line with the requirements of this national policy. For the purpose of transitioning to green and low-carbon energy, the Energy Law provides rules to support the development of renewable energy and to promote this transition.

First, the Energy Law sets up a target-oriented controlling mechanism and requires national energy authorities to set the minimum goals on the percentage of renewable energy in total energy consumption. These authorities will ensure the attainment of such targets. To discharge this duty, the national energy authorities will provide guidance to energy authorities at the provincial level as to formulation of their targets and plans, and supervise the achievement of these targets and plans. At the same time, the law requires improvement of the guarantee mechanism for renewable energy consumption and specifies the responsibilities of entities in energy consumption.

Enterprises engaged in generation, distribution, and utilization of electric power have obligations to achieve a certain percentage of the portfolio from renewable energy.¹⁴ Before adoption of the Energy Law, governmental authorities already set some minimum targets for consumption of renewable energy. The Energy Law gives more legal authority on such targets, and lays the institutional foundation for prioritizing the development of renewable energy.¹⁵

Second, the Energy Law establishes a mechanism to promote consumption of green energy. The law explicitly implements a system of renewable energy and a so-called green certificate. Green certificates are already accepted as the sole proof of environmental attributes of electricity generated with renewable energy, and the only credential for the production and consumption of electricity generated with renewable energy in China.¹⁶

Third, the Energy Law proposes specific requirements for expanding green energy consumption. It stipulates that public institutions should prioritize procurement and use of renewable energy and other clean, low-carbon energy sources, as well as energy-saving products and services. Energy users are required to fulfill their energy-saving obligations according to the law, and all parties should actively participate in green energy consumption, promoting the formation of green and low-carbon production and lifestyles.¹⁷

7. *Id.* art. 1.

8. *Id.* art. 5(2).

9. *Id.* art. 11(2).

10. *Id.* art. 15.

11. *Id.* arts. 15-16.

12. *Id.* arts. 17-20.

13. Opinions of the Central Committee of the CPC and the State Council on Carbon Dioxide Peaking and Carbon Neutrality in Full and Faithful Implementation of the New Development Philosophy (issued by the CPC Central Committee and the State Council, Sept. 22, 2021), 2021(31) STATE COUNCIL GAZ. 33-38.

14. Energy Law, *supra* note 1, arts. 22-23.

15. *Id.* art. 23.

16. *Id.* art. 24.

17. *Id.* art. 35.

C. Energy Security

Energy security is a key concern of China and one of the main legislative purposes in adopting this law. The Energy Law creates a legal framework to ensure a continuous and stable supply of energy by establishing systems for energy development and utilization, energy reserve, supply services, and emergency management.

First, it improves energy development and utilization by establishing a diversified and reliable energy supply system. It makes comprehensive institutional arrangements for development, utilization, production, supply, and consumption of various energy types. While vigorously promoting development of non-fossil energy, it also promotes the clean and efficient use of coal, optimizes coal development and the structure of the energy industry, recognizes the foundational role of coal in the energy supply, and leverages the role of coal in energy regulations. It also calls for increased efforts in the exploration and development of petroleum and natural gas resources, rational development in alternative fuels, international energy cooperation, and other measures to ensure the security of the energy supply.¹⁸

Second, it improves the energy reserve system and ensures reliable power supply through coordinated regulation of the supply side and demand side. The Energy Law establishes an energy reserve system, which should scientifically and rationally determine the types, scales, and methods of energy reserves. This energy security reserve system emphasizes variety of product, production capacity, and on-site reserves. To enhance the flexible regulation capacity of the power system, the Energy Law supports the construction of various energy storage facilities, such as pumped storage, new energy storage, and flexibility transformation of coal. It requires improvement of demand side management systems.¹⁹

Third, it establishes a responsibility system for energy services and requires suppliers of electricity, gas, and heat to provide a safe, continuous, and reliable energy supply. Energy suppliers are prohibited from arbitrarily raising energy prices, reducing supply, or limiting purchase quantities. If they violate these requirements, they will be subject to various penalties. The Energy Law particularly emphasizes that priority should be given to the energy needs of household use and agricultural production in the event of a temporary shortage of energy supply in rural areas.²⁰

D. Energy Market

The Energy Law improves the basic institutional design of the energy market and fully leverages the decisive role of the market in the allocation of resources. Specifically, the law implements three main institutional designs. First, it calls for construction of a unified national energy trading market. It requires the accelerated establishment of a

unified energy market system, improvement of the energy trading platform, and standardization of energy market supervision systems to better play the role of the market in optimizing resource allocation.²¹

Second, the Energy Law strengthens supervision of monopolistic energy suppliers, promotes market-oriented reforms, and encourages competition in the energy industry. It differentiates naturally monopolistic sectors and competitive sectors. The government should closely supervise naturally monopolistic sectors to prevent enterprises from extending their monopolistic advantages to upstream or downstream enterprises of competitive sectors. As to competitive sectors, the law prevents the government from improperly interfering in the market. The government should create a fair market for all entities and make the market play its full role.²²

Third, the Energy Law improves the market-oriented mechanisms of price formation for energy. It stipulates that the price of energy should be based on factors such as the conditions of energy resources, costs of products and services, supply and demand, and sustainable development.²³

E. Energy Supervision

The Energy Law specifies supervisory responsibilities, focuses, and methods. It promotes construction of a unified, efficient, and orderly energy supervision system. First, the law clarifies supervisory responsibilities. It stipulates that the national energy authorities are responsible for national energy supervision, while local energy authorities and other relevant departments are responsible for local energy supervision, forming a hierarchical supervisory system with clear responsibility at both central and local levels.²⁴

Second, the Energy Law highlights supervisory priorities. Ensuring national energy security is an important responsibility of energy supervision. The law clarifies supervisory requirements as to energy development and utilization, energy reserve systems, energy supply, and safety in production, and holds enterprises and relevant governmental departments accountable. Power grids and oil and gas pipelines are key focuses of energy supervision because they are naturally monopolistic. The Energy Law also emphasizes the need to strengthen the supervision of fair access to pipelines, ensuring that all business entities have fair access under the premise of safety.²⁵

Third, the Energy Law innovates supervisory methods. It explicitly requires the establishment of an information system for energy supervision, strengthening the credit system for the energy industry, and the use of credit rating evaluations to urge all market players to operate in compli-

18. *Id.* arts. 25-33.

19. *Id.* arts. 47-49.

20. *Id.* arts. 36-38.

21. *Id.* art. 45.

22. *Id.* arts. 40-42.

23. *Id.* arts. 40-46.

24. *Id.* art. 12.

25. *Id.* art. 67.

ance with laws and regulations and to fulfill their obligations to ensure supply and stabilize prices.²⁶

II. Revision of the Mineral Resources Law

The NPC Standing Committee further revised the Mineral Resources Law of the People's Republic of China on November 8, 2024.²⁷ The newly revised law adopts a problem-oriented approach, making a series of innovative provisions as to national security of mineral resources, allocation of mineral rights, registration of mineral rights, land use for mining purposes, and ecological restoration during and after mining.

A. Acquisition and Protection of Mining Rights

Before this revision, the Mineral Resources Law implemented an application and approval system for rights in the exploration and mining of minerals, which was no longer suitable for allocation of mining rights under market economy conditions. The newly revised law clearly stipulates that mining rights should be granted through competitive methods such as bidding, auction, and listing.²⁸ This represents a fundamental change in the management and utilization of mineral resources, which is of great significance for development of a market economy and for improving development, utilization, and protection of mineral resources. While comprehensively promoting the establishment of mining rights in a market-oriented manner, the newly revised law also makes exceptions to the bidding, auction, listing, and transfer system. Laws, administrative regulations, or rules of the State Council may allow the granting of mining rights through agreements or other means.²⁹

At the same time, to effectively protect the legal rights of mining rights holders while maintaining administrative control of mineral resource exploration and mining activities by governmental mining authorities, the law implements a system that separates registration of mining rights as property rights from the administrative licensing of mineral resource exploration and mining activities. To obtain mining rights, an application for mining rights registration must be submitted to the government authorities in charge of granting mining rights. If the registration conditions are met, the mining rights granting department shall record the relevant matters in the mining rights register and issue a mining rights certificate to the mining rights holder.³⁰

After obtaining mining rights, the rights holder must prepare an exploration or mining plan and submit it to the original granting department for approval before con-

ducting mineral resource exploration or mining activities. Without obtaining the necessary permits, mining rights holders are prohibited from conducting exploration or mining activities.³¹ This provision indicates that the mining rights certificate, as a property rights certificate, has legal attributes completely different from the exploration or mining permit, which is an administrative license. Unless required by law or through legal procedures, mining authorities cannot arbitrarily revoke a mining rights certificate or deprive the mining rights holder of their property rights.

The newly revised Mineral Resources Law also makes other institutional arrangements to protect the legal rights of mining rights holders. First, it no longer distinguishes between state-owned, collective-owned, and individually owned mining enterprises. Second, it provides for compensation for revocation of mining rights. Before expiration of the mining rights, the governmental department that originally granted the rights may revoke the right for the public interest. If a mining right is revoked and taken back, fair and reasonable compensation must be provided according to the law.³² Third, the law extends the validity period of exploration rights, from three years to five years. A mining right may be renewed not more than three times, and each renewal is not more than five years.³³

B. Special Provisions on Land Use for Mining Purposes

To address the widespread issue of “legal mining but illegal land use,” the newly revised Mineral Resources Law makes special provisions on land use for mining purposes for the first time.³⁴ First, it requires that the land needed for the exploration and mining of mineral resources be considered in the preparation of territorial spatial planning. This may solve the issue of land use for mineral resource exploration and mining from a spatial planning perspective. Second, it diversifies the sources of land supply and clarifies that the natural resources department can supply mining land through various ways such as transfer, leasing, and capital contribution. Mining enterprises can choose different methods to get land use rights.

Third, the law provides that the government may exercise eminent domain to convert the land owned by rural collectives into state-owned land for mining of strategic minerals. This is in line with a special provision regarding the scope of land expropriation under the Land Management Law. Fourth, temporary land use is allowed for mineral resource exploration. For open-pit mining of strategic mineral resources, temporary land use is permitted if the land meets the conditions for environmental restoration while mining. If this option is chosen, a prior scientific study is required. If the temporarily used land is agricultural land,

26. *Id.* art. 66.

27. Mineral Resources Law of the People's Republic of China (promulgated by the NPC Standing Committee, Mar. 19, 1986; first amended by the NPC Standing Committee, Aug. 29, 1996; second amendment by the NPC Standing Committee, Aug. 27, 2009; revised Nov. 8, 2024; effective July 1, 2025), 2024(6) STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 867-77.

28. *Id.* art. 17.

29. *Id.*

30. *Id.* art. 22.

31. *Id.* art. 33.

32. *Id.* art. 26.

33. *Id.* art. 24.

34. *Id.* art. 34.

it must be restored to its original condition for agricultural use. Fifth, the land use period for mineral resource exploration and mining shall not exceed the duration of mining rights. This means that the duration of land use can be extended according to the duration of mining rights to ensure the consistency between the mining and land use.

C. *Establishment of Mine Ecological Restoration System*

The newly revised Mineral Resources Law adds a new Chapter 4 entitled Ecological Restoration of Mining Areas, making clear provisions on post-mining ecological restoration.³⁵ First, the law makes clear that ecological restoration of the mining area should be achieved through a combination of natural restoration and artificial restoration. The ecological restoration should be carried out under the principles of adjusting measures to local conditions, scientific planning, systematic control, and reasonable utilization by adopting engineering, technical, and biological measures. These principles are to ensure proper restoration and control of the geological environment, landform reshaping, vegetation restoration, and land reclamation, to name a few. Where pollution control in mining areas is involved, the requirements of the relevant laws, regulations, and technical standards shall be complied with.³⁶

Second, the law requires allocation of responsibility for ecological restoration in mining areas. The mining rights holder is responsible for ecological restoration in mining areas, and should fulfill this obligation according to law. The expiration of mining rights does not eliminate the ecological restoration obligation of the mining rights holder. If the mining right is transferred, the transferee shall fulfill this obligation. In an abandoned mining area, the local people's government at or above the county level shall organize the ecological restoration of the mining area if the person responsible for the ecological restoration is unknown or cannot be confirmed.³⁷

Third, the newly revised Mineral Resources Law requires preparation of an ecological restoration plan for mining areas. Before mining mineral resources, the mining rights holder must prepare an ecological restoration plan and submit it for approval along with the mining plan to the governmental department responsible for granting mining rights. The mining rights holder must carry out ecological restoration according to the approved plan.³⁸ Fourth, the newly revised law makes clear that the costs of ecological restoration of the mining area are to be included in the production costs. The mining rights holder should earmark the ecological restoration costs according to the governmental regulations, which are to be specifically used for the ecological restoration of the mining area.³⁹

35. *Id.* arts. 41-49.

36. *Id.* art. 44.

37. *Id.* art. 45.

38. *Id.* arts. 46-47.

39. *Id.* art. 49.

D. *Legal Status of Mineral Resource Supervision*

The newly revised Mineral Resources Law established a supervisory system for mineral resources.⁴⁰ After establishment of the Ministry of Natural Resources, land supervision was reformed into natural resource supervision. Incorporating mineral resource supervision into the national natural resource supervision system is a major institutional innovation in the practice of mineral resource supervision and management.⁴¹

The law provides that the administrative department of natural resources under the State Council shall, jointly with the relevant departments, be responsible for supervision and administration of the exploration and mining of mineral resources and ecological restoration of mining areas at the national level; and the administrative departments of natural resources under local people's governments at the county level or above shall, jointly with the relevant departments, be responsible for the supervision and administration of the exploration and mining of mineral resources and ecological restoration of mining areas within their respective administrative region.⁴² At the national level, the administrative department of natural resources under the State Council is the Ministry of Natural Resources. Local governments have corresponding departments that shall be responsible for law enforcement.⁴³

The newly revised Mineral Resources Law establishes the inspectors within the system. The agencies authorized by the State Council shall supervise development and utilization of mineral resources, and the supervision and administration by people's governments of provinces, autonomous regions, and centrally administered municipalities.⁴⁴ This is the biggest difference in supervisory authorities introduced by this revision.

III. **Administrative Regulations**

A. *Interim Regulations on Administration of Carbon Emissions Trading*

Carbon emissions trading is an important means to control and reduce emissions of greenhouse gases such as carbon dioxide through market mechanisms, and to help actively and steadily promote carbon peaking and carbon neutrality. The State Council adopted the Interim Regulations on the Administration of Carbon Emissions Trading on January 5, 2024.⁴⁵ This is China's first special administrative regulation on carbon emissions trading at the national level. It provides a clear legal basis for the operation and management of the national carbon emis-

40. *Id.* art. 14.

41. *Id.* arts. 56-61.

42. *Id.* art. 14.

43. *Id.* art. 56.

44. *Id.* art. 14(3).

45. Interim Regulations on the Administration of Carbon Emissions Trading (adopted by the State Council, Jan. 5, 2024, effective May 1, 2024), 2024(6) STATE COUNCIL GAZ. 22-26.

sions trading market and ensures the healthy development of the carbon market.

Currently, the national market does not cover all emissions trading in China. The eight local trading platforms will continue to operate in conjunction with the national market. Currently, only thermal power plants are trading in the national market. In the future, the national trading platform will expand its coverage and take some business from local markets to the national trading system, but local markets may still continue for some time.

B. *Regulations on Ecological Protection Compensation*

Ecological protection compensation is a financial mechanism to provide monetary rewards to local governments and individuals who protect the environment and confer a benefit to places besides where the government is or the individual lives. China has conducted experiments with ecological protection compensation for some time. The State Council adopted Regulations on Ecological Protection Compensation on February 23, 2024.⁴⁶

The regulations mainly include general principles of vertical financial compensation, interregional horizontal

compensation, and compensation through market mechanisms. They clarify that the state compensates, through financial transfer payments, persons who protect important environmental factors and important areas of ecological functions. At the same time, they encourage, guide, and promote local governments and business entities that benefit from others' environmental protection efforts to compensate those persons making such efforts. In sum, the regulations summarize the experience of previous pilot projects and experiments.

IV. Conclusion

As the codification process is underway, the NPC Standing Committee slowed its pace in adopting new environmental laws or revising existing environmental laws. The two laws and the two administrative regulations reviewed here are on topics that will not be fully codified. The NPC released a draft of the Ecological and Environmental Code to the public for comments on April 30, 2025.⁴⁷ The draft has 1,188 articles covering general principles, pollution control, ecological protection, green and low-carbon development, and liabilities. We will follow the legislation process and summarize it in a later report.

46. Regulations on Ecological Protection Compensation (adopted by the State Council, Feb. 23, 2024, effective June 1, 2024), 24(12) STATE COUNCIL GAZ. 7-11.

47. *Five Draft Laws Are Publicly Soliciting Comments*, NPC (Apr. 30, 2025), http://www.npc.gov.cn/npc/c2/kgfb/202504/t20250430_445089.html. The text of the draft Ecological and Environmental Code is available at <http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff808181927f0e7b019685b4d2bd010d> (last visited May 5, 2025).