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China's Environmental Administrative Enforcement System

by Dr. Xuehua Zhang

Over the past three decades, the Chinese government has established a comprehensive environmental legal system and organizational infrastructure to address the increasing environmental degradation that has resulted from its unprecedented economic growth. As of 2012, approximately 3,177 local environmental protection bureaus (EPBs) with about 205,000 staff members were working at the sub-national level throughout the nation.[1]

This article presents an overview of China's environmental administrative enforcement, primarily regarding pollution control. It introduces the institutional framework of China's environmental enforcement at the national and local levels and discusses the role of citizens and courts. The main challenges with China's environmental enforcement are also presented.

I. Overall Institutional Framework of China's Environmental Enforcement

The Chinese environmental administration reflects the basic features of the Chinese state, which is a multilayered institutional structure with territorial divisions at the center, province, city, county, township, and village levels.[2] At the top is the Ministry of Environmental Protection (MEP), a cabinet-level ministry in the executive of the Chinese government. Directly under the State Council, the MEP has 15 divisions and is primarily charged with the task of protecting China's air, water, and land from pollution and contamination. Examples of the MEP's primary responsibilities are to organize the formulation of national policies, laws, and regulations, to develop national environmental quality and pollutant discharge standards, to guide and coordinate major environmental problems, e.g., severe pollution accidents, at the regional and local levels, to formulate pollution reduction programs and to supervise their implementation, and to manage environmental monitoring, statistics, and information.

While the MEP is primarily responsible for supervising local environmental enforcement, it has also taken direct enforcement measures.[3] This has often been done through special environmental enforcement campaigns launched in cooperation with local EPBs. Almost every year, the MEP initiates countrywide campaigns to address specific environmental problems, such as excessive pollution from Township and Village Industrial Enterprises, prevention of accidents in the chemical sector, pollution from mining activities, etc. For example, the MEP launched a major campaign in 2005 to enforce the Environmental Impact Assessment (EIA) Law, which came into effect in September 2003.[4] The campaign, widely known as the "Environmental Protection Storm," started with a nationwide public education program on the EIA Law.

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In an unprecedented move, the MEP slapped "regional permit restrictions" on four cities and four major power companies, suspending approval of any new projects until they brought their existing facilities into compliance with environmental regulations. The campaign even halted some Three Gorges-related dam construction activities. However, the construction activities were soon permitted to continue after additional documentation was provided.

The MEP is replicated at the provincial, city, city-district/county level, and, in some places, township level, in units known as EPBs.[5] Like most local government agencies in China's unique bureaucratic system, local EPBs must be responsive to two leaders: the administratively higher tier EPB; and the local governments where they reside. Under this dual leadership, the MEP and provincial EPBs provide city EPBs with policy directives and guidance for the implementation of national and provincial environmental regulations. District and county EPBs are below the city level in the Chinese bureaucracy, and thus receive guidance from city EPBs. Therefore, the chief responsibility of EPBs at and below the provincial levels is to enforce laws and policies designed by the MEP and to assist in drafting local rules to supplement central ones. Monitoring, recordkeeping, fee collection, on-site inspection, and violation and accident investigation are also assigned to them.

However, it is local governments, not the MEP or higher tier EPBs, that provide local EPBs with their annual budgetary funds, approve institutional advancements in rank, and appoint the bureau directors.[6] As a result, the local government is considered to be the more powerful of local EPB's two administrative supervisors. Local EPBs are so dependent on local governments that they must take those governments' concerns into account when regulating polluting sources or taking enforcement actions. The MEP has limited control over the priority and activities of local EPB enforcement.

To strengthen its influence at the local level, by 2009, the MEP had created six regional "environmental protection supervision centers" (known as "regional environmental watchdogs").[7] These centers were modeled directly after the U.S. Environmental Protection Agency's Regional Office system. Under the sole and direct leadership of the MEP, each center is entrusted with supervision of local enforcement and with coordination and resolution of major and transboundary pollution disputes (involving multiple regulatory jurisdictions) and ecological destructive accidents. In practice, the centers have largely served to keep the MEP informed of important local problems and to check on regulatory compliance violations of local polluters.[8] The centers themselves have limited autonomy. They have no monitoring capacity and rely on local EPBs for that. Nor may they engage in direct enforcement actions. Moreover, a center cannot direct the EPB's work in its jurisdiction.

II. Local Environmental Enforcement

In China, local EPBs have relied on a number of specific regulatory instruments for industrial pollution control. The most important ones, introduced by the 1989 Environmental Protection Law (EPL), include environmental quality and emission/discharge standards, "Three Synchronizations," EIA, Pollution Levy System (PLS), and the Discharge Permit System (DPS).[9] The MEP is authorized to establish national environmental quality standards, which are maximum allowable concentrations of pollutants in water, air, or soil, and national discharge/emission standards, which are maximum allowable concentrations of pollutants in industrial emissions or discharges. Those standards provide a basis for EPB inspections.

The "Three Synchronizations" requires that (1) the design, (2) the construction, and (3) the operation of a new industrial enterprise (or an existing factory expanding or changing its operations) be synchronized with the design, construction, and operation of an appropriate pollution treatment facility. Once the construction of the project is completed, inspection and approval by EPBs are required (for large projects, or in case of a dispute at the local level, the approval has to be confirmed by the national-level authority). If project operations begin without EPB approval, the owner of the project can be sanctioned. The 1989 EPL requires projects with potentially negative environmental effects to be subject to EIA before approval by local Development and Reform Commissions. The MEP conducts nationwide checks on the implementation of EIA, while local EPBs are responsible for the compliance of EIA requirements at the local level.

The PLS links an economic incentive for pollution reduction with sanctions in case of noncompliance. The polluting sources that refuse to register their waste releases or fail to pay the amount of due pollution levies face an administrative penalty. In practice, the actual levy paid by a firm is usually negotiated between the EPB and the firm, rather than calculated using formulas detailed in regulations. Under the DPS, EPBs issue permits that limit both the quantities and concentrations of pollutants in an enterprise's wastewater discharges and air emissions. DPS rules require enterprises to register with EPBs and apply for a permit. The discharge permits provide a basis for

collecting pollution levies and are used to verify whether polluting sources discharge wastes illegally. The violations of the discharge permit requirements are subject to administrative penalties.

At present, the most common offenses found in practice are failure to comply with the EIA or "Three Synchronizations" requirements, noncompliance with environmental standards and failure to pay pollution levies, operating without necessary environmental permits, and failure to operate pollution control facilities.[10] The violations are usually detected by EPBs through regular inspections or by the victim, local public, or media, and then made known to EPBs. In most cases, violations are detected following citizen complaints.

After a violation is detected, EPB inspectors carry out on-site inspections (in the case of violations detected during EPB regular inspections, EPBs inspectors are already onsite) to gather evidence, sometimes working in tandem with environmental monitoring staffs who collect pollutant samples and generate monitoring results for verifying the violation.[11] This is difficult, because violators often do their utmost to obstruct EPB work. For example, they might refuse to provide relevant information, to sign the EPB on-site inspection documents, and might use personal connections to influence EPB work. On the basis of the evidence collected, inspectors write a sanction proposal and submit it to EPB leaders for review and a final sanction decision.

In principle, EPBs have jurisdiction over issuing several administrative sanctions, such as warning letters, fines, unlawful gains confiscation, stoppage of production or use, discharge permit revocation, enterprise closure, or relocation orders.[12] In reality, fines are the most frequently applied measure, while closing down a polluter, revoking its permits, or ordering it to stop production are seldom used, because the issuance of those sanctions needs approval from local leaders. Different levels of EPBs have different responsibility and authority to impose penalties. County EPBs can impose fines of up to 10,000 Chinese Yuan Renminbi (CNY) (approximately US$ 1,500), and city EPBs can impose fines up to CNY 50,000, while provincial EPBs can impose up to CNY 200,000. When deciding on the proposed sanction, EPBs look at the statutory sanction limitations and take into account such factors as the degree to which regulations were violated, the number of times violations occurred, and the response to the violation (whether voluntary corrective action was taken).

It is EPB leaders, not on-site inspectors, who exercise considerable discretion in deciding the types and amount of penalties imposed. EPB leaders often face tremendous external pressures in making a final sanction decision.[13] For example, they frequently need to consider "requests" from local leaders on behalf of violators in order to evade the punishment, the future relationships with violators (often influential local enterprises), interpersonal connections of violators with EPB leaders through which violators ask for favors of reducing or waiving fines. The maximum statutory penalty is rarely issued in practice.

Compliance schedules ("pollution control within deadlines") are also frequently used: they require enterprises to reduce their pollution releases to acceptable levels by specific dates. Cleanup deadlines for enterprises are usually imposed by the national or local governments, but EPBs can also be authorized to set such deadlines. Enterprises that do not abate pollution on time risk being fined or shut down. In recent years, the system was expanded by offering the possibilities for technological renovation, phaseout of outdated technologies and products, and promotion of cleaner production in exchange for extending the shutdown deadlines.

There are three verification procedures designed to check or review EPB administrative decisions: internal review; administrative review; and court review.[14] Internal review means that higher tier EPBs take initiatives to verify the enforcement work of lower tier EPBs. Administrative review of a county EPB decision can be carried out by a municipal EPB or by the legal office of the county government, when the latter receives a request from a regulated party who disagrees with the county EPB decision. Court review of EPB decisions is usually initiated by regulated parties under the Administrative Litigation Law (ALL).

III. Role of Courts and Citizens in Local Environmental Enforcement

When administrative enforcement is insufficient or fails, noncompliance can be addressed through the courts in China. This can include actions ranging from gaining court assistance in collecting pollution levies or fines to criminal sanctions for serious environmental degradation. The ALL, which went into effect in 1990, permits citizens and organizations to sue administrative organs in court.[15] One provision of the ALL also allows courts to enforce the administrative decisions of agencies. In judicial practice, the annual number of lawsuits filed by agencies increased from 88,147 in 1993 to 217,488 in 2005, while that of cases filed by citizens merely climbed from 27,911 in 1993 to 96,178 in 2005; the average ratio of two types of cases filed under the ALL is 3.5:1.[16] This indicates that the ALL has largely empowered regulatory agencies.

Studies have found that court enforcement of EPB decisions has enhanced EPB regulatory power by generating notable deterrent effects on the regulated community.[17] Since the majority of the ALL cases filed by EPBs involved collection of pollution levies and fines from small tertiary industries, court enforcement has not had significant effects on pollution reduction. Although the number of the ALL cases brought by citizens is relatively small, research has found that many lawsuits, such as collective ones filed by citizens against EPBs for inaction, have brought fundamental changes to EPB enforcement procedures and practices.[18] It is these cases that demonstrate the ALL's long-term potential for placing EPB enforcement activities under the supervision of citizens and the courts.

While the 1979 EPL had previously authorized criminal prosecutions of serious pollution accidents, the 1997 amendments to the Criminal Law, for the first time, formally introduced into the criminal code that violation of environmental law would be subject to prosecution.[19] The Criminal Law now stipulates up to three years of imprisonment and/or a fine for individuals involved in illegally discharging pollutants. The police are charged with investigating environmental crimes together with the prosecutor's office. EPBs are consulted to facilitate the investigation and provide information. However, current laws are silent on such issues as liability for activities that are potentially dangerous and liability in the absence of either intent or negligence. Moreover, although a number of high-profile cases of environmental crime have been submitted to the courts, this avenue has generally not been used very often, due to difficulties in establishing causal relationships between pollution and harm, uncertainty over legal responsibility, and lengthy judicial procedures.

In recent years, the Chinese central government has increasingly emphasized the importance of public participation to improve local environmental enforcement and compliance. The most commonly used channel for citizen participation in environmental enforcement is the citizen complaints system.[20] The majority of citizen complaints about the environment are lodged at local EPBs. The government has taken many important measures to encourage citizens to report environmental violations by polluting sources, so that EPBs can undertake quick enforcement actions. Examples of such measures are the passage of the national Environmental Complaint Management Measures in 1990, the revisions in 1997 and 2006 respectively, and a mandatory requirement of the nationwide installation of 24-hour telephone hotlines. As a result, the annual number of environmental complaints increased from 98,207 in 1993 to 738,304 in 2009 throughout the nation, an increase of about 650%.[21]

In many regions, accepting and responding to citizens' complaints has become the priority of local EPBs. EPBs are required to take complaints 24 hours per day, and many EPBs instituted a rotation system, whereby the entire staff of an EPB would rotate taking night shifts to answer phone calls. In urban areas, the EPB staff is required to arrive at the affected areas within two hours after receiving a complaint; this time limit extends to six hours in rural areas. To accommodate the high volume of citizen complaints, EPBs have each established internal structures and procedures to accept complaints. In many localities, this includes a newly formed complaints department under the direction of the EPB administrative headquarters or supervision stations. This department is responsible for accepting letters, visits, phone calls, and e-mails, arranging follow-up inspections by the EPB supervisory station, and delivering responses to the complainants. In some localities, the reporting parties are rewarded financially for providing information on noncompliance.[22]

While citizen complaints have been a good supplementary source of information on pollution discharges for local EPBs, the complaint system has failed to identify in a timely or consistent manner some of the most important environmental violations that are also uncovered by EPBs' formal pollution data-gathering program.[23] This has primarily resulted from the dominance of complaints about nuisance noise problems, such as noisy air conditioning motors on apartment buildings. In practice, most reported complaints relate to noise pollution, followed by air and water pollution.

IV. Challenges for China's Environmental Enforcement

China has developed a robust set of environmental regulations and a comprehensive administrative setup, but implementation has been hobbled by systemic impediments. First, local EPBs' continuing dependence on local governments for funding, personnel arrangements, and resources has been a fundamental structural impediment to effective enforcement. The actions of EPBs are thus directed more by local governmental leaders than by the MEP, as those leaders' performance has been evaluated using criteria that emphasize gross domestic product growth, with little, if any, consideration of environmental performance. When stringent environmental enforcement has perceived negative impact on short-term economic development, local leaders frequently intervene in EPBs'

work in order to ease environmental requirements. Such intervention has seldom had severe and predictable legal consequences, as China is still in its infancy of developing the rule of law.

Second, Chinese environmental laws are imperfect, and, in particular, EPBs have insufficient enforcement authority and consequently have low status. Chinese environmental laws and regulations are generally vague, broad, impractical, and difficult to enforce. They have granted local EPBs a wide range of enforcement responsibilities without a solid legal basis for their work. The laws usually grant EPBs certain punishment rights without specific punishment provisions. When facing violations, EPBs sometimes lack solid legal provisions to support their punishment decisions. Meanwhile, Chinese environmental laws do not grant EPBs enforcement measures like the ones that other government agencies such as tax bureaus have. Local EPBs' status is regarded as low relative to other governmental departments.

Third, EPBs' insufficient funding, lack of qualified enforcement personnel, and infrastructure have all contributed to poor enforcement. The process of decentralization has resulted in more responsibilities delegated to local governments by the central government for addressing local problems without necessary means to fulfill them. This has created a revenue-raising problem for local EPBs. Without sufficient funds from local governments, particularly ones in the less-developed regions, many EPBs have continued to depend on revenues from the pollution levy to finance their operations. As a result, there has been a greater focus on collecting levies than pollution reduction. EPBs are also found to be involved in both conducting and preparing EIA documentation, as well as assessing EIAs required by the environmental laws—this creates conflicts of interests.

Moreover, when local governments in many regions cannot even pay the salaries of local officials, training for EPB staffs appears to be a nonessential luxury. The lack of qualified enforcement personnel and infrastructure has become increasingly severe at the county level, where the widespread relocation of polluting sources into the outskirts of major cities has been taking place. In general, a county EPB is more dependent on its county government for resources than a city EPB is on its city government, and has less funding, less qualified enforcement personnel, and poorer infrastructure than a city EPB.

Fourth, the Chinese people represent an inefficiently and inadequately utilized resource in environmental enforcement. Although the number of environmental citizen complaints has increased dramatically in recent years, a significant portion of the complaints have focused on nuisance problems. As a result, such complaints have not provided as much important noncompliance information for local EPBs as might otherwise be expected. This has resulted in the misallocation of EPBs' already constrained enforcement resources, as local EPBs are required to respond to every single complaint swiftly.

Last, but not least important, there has been ineffective court enforcement of EPB decisions and insufficient court oversight of EPB enforcement activities. Many EPBs have largely relied on court assistance for collecting pollution levies and administrative fines; very few have used courts for pollution reduction purposes. Moreover, courts have received a significantly smaller number of lawsuits filed by citizens (compared with a large number of cases filed by EPBs) to challenge EPB decisions or against EPB's inaction; this has greatly limited the judicial oversight of environmental administrative enforcement.

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The Legislative Experience and Lessons of China's Renewable Energy Law and Its Future Development

by Jiejun Yang

With its rapid social and economic development, China has a great need for energy, which has become a strategic resource for China. Because of China's growing energy consumption, there is a great need for energy savings and the development of new energy sources, including renewable energy sources. Currently, the Law of Conservation of Energy of the People's Republic of China[1] is inadequate to meet the demands arising from growing economic and social development. Moreover, the increase in prices of international crude oil, starting in 2004, underscores the need for the development of alternate energy sources, particularly renewable energy. There has been increasing pressure on the National People's Congress of the People's Republic of China to develop a national energy policy that can accommodate the growing demand. On February 28, 2005, the Renewable Energy Law of the People's Republic of China (Renewable Energy Law or REL) was adopted by the National People's Congress, giving China for the first time a relatively comprehensive legal framework for the development and utilization of renewable energy. However, only three years after the enactment of the REL on January 1, 2006, amendments to the law were on the legislative agenda.[2] On December 26, 2009, 10 days after the end of the 2009 Copenhagen Summit on United Nations Framework Convention on Climate Change, the 12th Meeting of the Standing Committee of the 11th National People's Congress of the People's Republic of China adopted the Amendment of the Renewable Energy Law (REL Amendment). The relatively fast enactment and amendment of the Renewable Energy Law is somewhat remarkable in contemporary China. The experience and lessons therein will provide useful guidance to China's future energy legislation.

I. Experience: Prompt Lawmaking and Timely Modification

Compared with the normal legislative process of modern China, the enactment of the REL and the REL Amendment could be applauded as "prompt legislation" in two respects. First, the whole legislative process took a very short time. Only 18 months passed from the meeting in which the National People's Congress of China decided to include the REL into the legislative plan in June 2003, the draft act produced by the National Development and Reform Commission, and the law's approval by the National People's Congress. And secondly, the amending process was put on the agenda very shortly thereafter, only three years after the REL enactment. The fact that the REL Amendment was introduced only four years after the adoption and application of the REL makes the REL exceptional in Chinese legislative history.

The expeditious legislative process and prompt decision of amendment have both pros and cons. The legislative process can be carried out in a timely manner to meet emerging needs, and the rules should be amended from time to time to stay innovative as well.

A. The Legislative Process of Enactment and Amendment of the REL

China's energy legislation was developed from scratch and followed the legislative principle that enacting a law, even if imperfect, was better than having no law in the area. Therefore, enacting legislation is always better than not enacting legislation in China. Enactment of the REL is a reflection of this principle. The enactment, as the creation of law from scratch, emphasized prompt action and incorporated renewable energy into the realm of law, which previously was subject to no rules. The enactment of the REL, by transferring policies into binding rules and laws, reinforced the regulation of renewable energy, and enhanced the authority and enforceability of policies. The REL's application accelerates the development of China's renewable energy and protects the industry,[3] which also sets a good example in the international community. These positive effects shall be attributed to the enactment and application of the REL, evidencing the "good side" of Chinese legislative principle that "an imperfect law is better than no law."

The rapid development of China's renewable energy industry in recent years has revealed some flaws of the REL. On one hand, the REL is lagging behind the rapid development of renewable energy. And on the other, the REL has proven to be poor quality legislation, which

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failed to foresee the future development and trends while dealing with the current problems of the industry. The REL also failed to incorporate enough specific rules to clarify its general principles or to coordinate between policies and legal rules. The law was isolated from related laws[4] and failed to respond to the challenges encountered in the application. For example, the enactment of supportive measures and supervisory and enforcement mechanisms did not occur, the public's recognition of development of renewable energy has not been fostered, and relevant technical and market conditions need to be satisfied.[5] Consequently, there was a need to amend the Renewable Energy Law right after its enactment, which proves the Chinese legislative maxim that "the shorter the time taken in the enactment, the more modifications will be needed to improve it."

Although amendments may undermine the stability and constancy of the legislation, amendments have their advantages. As the law always has loopholes or imperfections, the rapid development of politics, economy, and society requires the law to reflect the latest development and to stay innovative through amendments. Otherwise, rather than promoting social development, the law might become a shackle fettering social development. Hence, the law "has to be modified or abolished in much shorter intervals."[6] Certainly, modification can improve the law and adapt it to current and future needs. Otherwise, the amendments will be a failure and cannot escape the destiny of being replaced by further amendments or abolishment.

The REL amendments occurred four years after the law's birth, during which time Chinese economic, political, and administrative systems undertook no fundamental change. The interval between the initial enactment and the amendment is very short.[7] This actually proves that the amendments to the REL were urgent due to the rapid development of renewable energy and drastic changes of the domestic and international economic situation, together with the deterioration of the environment and the creation of public concerns. Hence, the national legislative authorities accelerated the amending process. It is also anticipated by some that further amendments of the REL will be forthcoming in the near future.

B. Contents of the REL: The Timely Adjustment and Innovative Rules

Before the Renewable Energy Law was enacted, there were some laws (for example, the Electric Power Law and the Law of Conservation of Energy) that regulated the development and utilization of renewable energy. Those laws are quite simple and only express the state's supportive attitude toward the development and utilization of renewable energy. In order to promote the development of renewable energy, a number of regulations and policies were adopted by relevant authorities, such as Regulatory Rules on On-Grid Wind Power Stations adopted by the former State Electricity Department in 1994, Guideline on Development of New Energy and Renewable Energy from 1996 to 2010 co-enacted by the State Committee of Planning, the State Committee of Science and Technology, and the State Committee of Economy and Trade, Administrative Methods of Burning and Comprehensive Utilization of Corn Straw adopted by the previous State Environment Protection Bureau in 2003. However, these regulations and policies could be described as incomplete, lacking coordination, continuity, and stability, and lacking enforceability and flexibility. As a compulsory legal mechanism is absent in the energy area, those dispersive legislative rules and policies did not produce satisfactory results in enforcement.[8]

In order to fill the vacancy of laws and policies in the energy sector, the Renewable Energy Law was approved by a vote of 162 to 0, with only one abstention. This high level of support reflected high expectations for what the law could accomplish in promoting the development and utilization of renewable energy. The law was highly valued and welcomed by a wide cross-section of society, especially by the energy industry, probably due to the fact that the law was adopted by the highest legislative body of China, and because of the innovations it contained. The law reflects practice and experience in other countries and provides a development system for renewable energy driven by both government supports and market forces.

A series of rules is adopted to ensure the development of renewable energy. For example:

- Article 7 and Article 8 of the REL set the goal of the development of renewable energy and establishment of a national planning system, and require that the Energy Department of the State Council set a national goal and make a development plan for the renewable energy industry. The provincial governments then can set a provincial goal of development according to the province's circumstance.
- Article 10 to Article 12 provide technical support to the development of renewable energy, requiring the

government to provide funds to support relevant science and technology research.
- Article 14 requires that the grid companies sign agreements with the renewable energy enterprises and guarantee the full purchase of renewable power generated.
- To ensure that the development of renewable energy conforms to the plan, Article 13 requires that new renewable energy power plants first obtain permission from the State Council. If several applicants apply for permission, the government shall grant permission through a bid-tender system.
- Article 24 requires the government to reserve a special treasury fund to support the development of renewable energy.
- Article 25 allows financial institutions to grant loans to renewable energy projects with low-interest rates.

To an extent, the prompt legislation and its compulsory rules accelerated the growth of the renewable energy industry.

However, application of the Renewable Energy Law revealed problems in the above-mentioned energy planning system, compulsory full purchase system, and financial support system. Representatives in the National People's Congress forwarded proposals and suggestions addressing some of these problems from time to time.[9] The State Council also reminded the industries to avoid the redundant construction of certain renewable energy plants, such as wind power plants, polysilicon plants, and so on.

The REL Amendment aims to address these problems and to rearrange and improve the rules of the REL. The REL Amendment addresses several issues of the REL and makes further innovations and improvements in the following areas.

- It improves the planning system to better realize the gross goal;
- It sets different target levels of development and utilization of renewable energy while adopting a consolidated enforcement plan;
- It makes overall plans for the development of the industry;
- It requires a full purchase of electricity generated by renewable energy by government instead of the grid companies;
- It establishes a sovereign fund named the Renewable Energy Development Fund to provide financial support to the industry, which is funded by the levies of the electricity consumption and treasury funds for specific purposes;
- It makes specific rules for reimbursement of price discrepancies generated by renewable energy[10]; and
- It strengthens the responsibility of grid companies.

Timely modification of the above-mentioned rules urges the healthy development of China's renewable energy industry, resulting in a more environmentally friendly and resource-conserving society, and provides more legal support in handling climate change problems.[11]

II. Criticisms: Analysis of REL's Legislative Direction, Content, and System

A. The Direction of the Legislation Fails to Highlight the Normative Feature of Law and the Specialty of the REL

Generally, current legislation in China follows the maxim "abstract and general principles are better than specific and detailed provisions." In the energy sector, state policy has a strong influence on the REL due to the importance of national energy security and strategy.

Hence, the REL will inevitably overemphasize the importance of policies and political guidance. Although enactment of a law is the reflection of political activities, and it is correct to allow politics to guide the legislation, politics should not be the final arbiter of what the law is. At least, the political voices should be expressed by normative or legalized rules. In areas with high technology or specialized knowledge, the contents of the law should embody that technical and special knowledge, which is reflecting the specialty of such law. From the author's view, the negative side of the current REL and the REL Amendment is evidenced by strong influence from politics: many rules are only statements of support and encouragement, rather than rules identifying rights and obligations, and special or technical rules featuring the specialty of the renewable energy are scant in the REL.

The preeminent problem of the REL is the strong influence of politics. As the framework legislation in the renewable energy area, the REL will be more effective if it provides more basic rules for the development and utilization of renewable energy, rather than a set of political policies. For example, compared with the Energy Policy Act of 2005 of the United States, the REL is composed of a series of abstract terms and principles, while the Energy Policy Act of 2005 lays out specific and detailed rules as legalized politics. In this author's view, the REL, as a law, does not have such legal features.

The REL transferred government policies directly into law. Although those policies have been transferred into law through the legislative process, the contents, verbal terms, and texts have not been properly transferred into legal rules, so the law is primarily a collection of policy statements, rather than legal rules. For instance, Article 4, Paragraph 1, in the REL states that "[i] n energy development, the State gives first priority to the exploitation and utilization of renewable energy in energy development and promotes the establishment and expansion of the market for renewable energy by setting objectives for the total volumes of the renewable energy to be exploited and taking appropriate measures." Article 12 provides that

> [i]n sectors of scientific and technological development and the hi-tech industries development, the State gives first priority to scientific and technical research in, and the industrialized development of, exploitation of renewable energy, includes such research and development in the national plan for scientific and technological development and the development of the hi-tech industries, and allocates funds for scientific and technical research in, and application, demonstration, and industrialized development of the exploitation of renewable energy, so as to promote technical advancement in the exploitation of the same, reduce the production cost of renewable energy products, and improve product quality.

These provisions provide guidance on priorities of the government and the policy preferences that the government will apply in determining whether to support a project, with strong features of political statements.

The REL also suffers from excessive "soft" provisions. In order to reflect the principle "to combine state responsibility with social support," the REL includes general statements on incentives, guidance, and principles, but lacks a clear provision on rights and responsibilities. For example, the law requires the state to engage in "encouragement," "adoption," "strengthening," "application," or "protection" of the renewable energy industry. Similarly, it requires the "State Council" and "local people's governments" to perform certain roles, but has not clarified how and when to perform, or what are the responsibilities if they fail to perform. These general and suggestive statements set no specific standards for the enforcement of the REL, which make the REL difficult to enforce without specific regulation. For example, Article 4 provides that "[t]he State encourages economic entities of various ownerships to participate in the exploitation of renewable energy and protects the lawful rights and interests of the exploiters of renewable energy in accordance with law"; Article 13, "[t]he State encourages and supports the on-grids of power generation by renewable energy and fossil energy"; Article 17, "[t]he State encourages units and individuals to install and use solar energy utilization systems"; and Article 18, "[t]he State encourages and supports exploitation of renewable energy in rural areas."

In addition, as framework legislation, the REL is equipped only with general principles with respect to the development and utilization of renewable energy. In the author's view, the REL lacks the features of technical law and specialized law, a major defect of the REL. The types of renewable energy are abundant, so the legislation shall support the versatile development of different energies according to the development conditions, extent of utilization, and technical standards of each type of renewable energy.

The legislation shall adopt different supportive measures and regulatory manners for different renewable energy according to their specific features. However, the current REL has not regulated the different renewable energy with different rules, and fails to reflect the legislative features as a technical law and specialized law.

B. The Content: Lack of Systematic and Scientific Setup

Implementation of the Renewable Energy Law appears to be lagging behind the development of the renewable energy sector after only three years of implementation, partly due to the unscientific legislative principle and poor arrangement of rules. Guided by the legislative principle that "an imperfect law is better than no law," the design and structure of the REL is imperfect with some loopholes and drawbacks.

Overall, the design and structure of the REL appears to be empty, lacking substantive contents. It only contains 33 articles, addressing certain complex mechanisms by some general and simple terms. The REL Amendment in 2009 improved the law by providing more detailed provisions and enriched the contents of the previous law. But the Amendment is still not detailed enough. For example, the chapter "Guidance for the Industry and Technical Support" contains only three articles, one of which, about industrial guidance, is very short, with only 44 Chinese characters stating: "The energy administration department under the State Council shall, in accordance with the national plan for

exploitation of renewable energy, compile and publish a development guidance catalogue of the renewable energy industry."

This means the issuance and publication of the industrial guidance depends on the Energy Department of the State Council. If the administrative department fails to issue guidance, this article will be a decoration. Article 11 has the same problem in its implementation.[12] Article 12 arranges national support on the research and development of renewable energy and provides relevant technical education. These rules not only need to be further specified, but also need to designate authorities to implement them. Otherwise, the abstract rules will diminish the legal effects of the law, leaving those rules unenforceable or being applied with too much discretion.

Second, the law fails to provide clear roles and responsibilities. Articles 5 and 27 of the Renewable Energy Law established a system for the regulation and supervision of the renewable energy industry.[13] However, these two rules only echo the existing circumstance, that is, authorize the State Energy Department to regulate the development and utilization of the renewable energy generally, failing to address the problems caused by multiple regulatory authorities, parallel functions of different agencies, dispersive funds allocation, redundant construction, cumbersome procedures, unsmooth coordination between different laws, inefficiency of regulation, and so on. Prior to reform of the ministries in 2008, 13 departments had certain authorities over energy management.[14] During The "Big Department System Reform" in 2008, the National Energy Board under the supervision of the National Development and Reform Commission was established, and officially assumed the duties since August 2008. However, given its status as a sub-ministry with limited administrative authority, the National Energy Board had difficulty in coordinating the key issues relating to energy during the last several years. On January 27, 2010, the National Energy Commission was formally established by the State Council as an agency for proposing and coordinating energy policies,[15] with primary responsibility for planning and drafting the national energy development strategies, considering the key issues of energy security and development, and coordinating the significant items of development and utilization of domestic energy and international cooperation in energy.

Concern has been expressed that the establishment of such a commission did not solve the original problem of institutional reforms.[16] Judging from the regular patterns of administrative regulation, such institutional reform does have problems, because the Commission, as the proposing and coordinating agency, has greater authority than the National Energy Board, which is the functional department. Thus, who shall be the decisionmaker or enforcer? The relationship among the Commission, the Board, and the State Development and Reform Commission and other relevant departments (such as the State Electricity Regulatory Commission) is even more intriguing.

The present system does not provide a clear, functioning framework, resulting in the obscure division of the status, responsibilities, and duties of different administrative agencies. International energy development tends to combine different energy industries together, resulting in the combination of the electric power and natural gas industries and the combination of the fossil energy and renewable energy industries, such as wind and solar. As these different types of energies are interchangeable with each other, it is not only necessary but also feasible to regulate them by the same system. With two or more agencies regulating the markets, there will be conflicts. Taking from developed countries' experience, establishing one agency that assumes all responsibilities of regulation will contribute to a more efficient regulatory system.[17] Such a system design would promote the development of new types of energy, coordinate existing sources, and promote economic development.

Third, the REL overemphasizes the state's responsibility of macro control of development and utilization of renewable energy with several articles relating to energy enterprise, but ignores citizens' participation and citizens' rights. Article 9 of the REL explicitly provides "[f]or drawing up a plan for exploitation of renewable energy, opinions of the relevant units, specialists, and the public shall be solicited, and scientific demonstration is necessary." However, in the absence of practical specified rules, public opinion is usually neglected. Meanwhile, the right to information and participation is not entrusted with the public with regard to the implementation of supportive rules and standards, decisions on development goals, awarding permits, supervision, and enforcement of the law. This lack of public participation will delay the formation and expansion of the renewable energy market and will frustrate the interests of consumers and the public.

Many articles of the REL mention the rights and obligations of the government and energy companies with little attention paid to the public or consumers. The expansion of the consumer market is significant to

the development of the renewable energy industries, as renewable energy will ultimately be a source of electricity. The level of consumer acceptance will directly affect market demand for renewable energy and thus influence the development of the industry. In the long term, renewable energy is expected to play a significant role in the national energy development strategy, and the development of the renewable energy industry will be crucial to the success of that strategy. Although the government's supporting policies will stimulate the growth of these industries in the short run, with the continuous development of the market economy, long-term success will depend more on the market itself and less on national industrial policy. As the end user, the public's demand for renewable energy will impact the renewable energy market, leading to further development of the industry. Therefore, renewable energy legislation should not only focus on the government and enterprise, but also recognize the functions of the public.

Lastly, implementation of the REL has been held back by the lack of a comprehensive framework and an unscientific arrangement of rules, resulting in ambiguous regulations and incompatibility with related laws and regulations. This can be seen, for example, in the full purchase rule for electricity generated by renewable energy resources. The REL adopts the full purchase rule for the electricity generated by renewable energy, which is guaranteed by agreement between the electric power companies and grid companies. However, the law does not clearly define the respective rights and obligations of the power enterprises and grid companies and fails to impose workable control measures over the grid companies or to stipulate a required purchase amount, resulting in an ineffective rule.

Article 14 of the REL Amendment adopts a full purchase guarantee rule instead of the previous full purchase rule and adds further specifications to the rule, which requires full purchase of electricity generated by the permitted renewable energy power projects through compulsory agreements between the grid companies and the electric power enterprises. The Energy Department of the State Council and the State Electricity Regulatory Commission shall urge the implementation of such agreements each year. Such requirements may guarantee orderly development of renewable energy, but from a market and competition perspective, the side effect is hampering the formation of the market through competition and may restrict the efforts at reducing the production cost of renewable energy.

C. The Legislation System: The REL Is Incompatible With Related Laws

The development and utilization of renewable energy will affect fossil energy, the environment, market development, and fiscal and tax systems. Renewable energy legislation should interact with related laws and systems to avoid undermining the integrity and effectiveness of the legal regime regarding renewable energy. Currently, there are four laws that directly deal with energy in China: the Coal Act; the Electricity Law; the Law of Conservation of Energy; and the Renewable Energy Law. Some regulations promulgated under the Renewable Energy Law are inconsistent with the provisions of the other three laws. The REL Amendment exacerbated this problem.

III. Conclusion

Renewable energy should be regulated under a system that will meet the country's practical needs, take into account development demands, and focus on problem solving. Generally, legislation of renewable energy should take into account the national strategy and fully consider all the issues regarding development and utilization of renewable energy by adopting a comprehensive law that is harmonious and compatible with related laws. In addition, specialized regulations that address technical issues of existing and emerging technology would support this growing area.[18] Therefore, China's energy legislation should be dynamic in order to address emerging issues.

In sum, the following conclusions can be drawn. First, it is highly probable that the country's energy legislation will enter a new stage of rapid development that will require more amendments to the REL. Second, the legislative process and contents of further legislation or amendments of REL should be more democratic and scientific. The arrangement of rules should be more reasonable, and public opinions should be frequently solicited. Third, the practicability and enforceability of the REL should be enhanced. Fourth, further legislation or amendments of the REL should pay more attention to coordination and consistency with other related laws. Accordingly, legislation on renewable energy in China will be improved to meet social needs and to promote energy development.

Endnotes

1 Adopted on Nov. 1, 1997; amended Oct. 28, 2007.

2 The amendment to the Renewable Energy Law was adopted at the Decision of the 13th Meeting of the Standing Committee of the 11th National People's Congress of the People's Republic of China on Environment and Resources on July 22, 2009, and preliminarily discussed by the 10th Meeting of the Standing Committee of the 11th National People's Congress of the People's Republic of China (Aug. 24-27, 2009), published by the Chinese National People's Congress website.

3 Since the law was enacted, it has played an important role in the development and utilization of renewable energy. Supporting regulations were enacted, and the renewable energy industries such as wind power and solar power have rapidly developed. The amount of wind power has doubled in four years, and wind power capacity reached 12,500,000 kilowatts in 2008. In addition, rural firedamp construction and other bioenergy technologies have progressed well.

4 *See* Jiejun Yang, *The New Thinking in the Legislation of Our Country's New Energy and Renewable Energy*, 1 Stud. L. & Bus. 94-95 (2008).

5 *See* Mingyuan Wang, *The Problems and Solutions in the Implementation of Our Country's Energy—Taking the Law of Conservation of Energy and the Renewable Energy Law as Examples*, 2 Law Stud. 122-29 (2007).

6 *See* Yang Fei, R*esearch on Law Revision: The Principle, Model, Technology,* Beijing: China Law Press 7 (2008).

7 Usually, the time from the enactment of existing laws to their first amendment is more than 10 years, with a small number of first amendments within five years, such as the Land Management Law and Highway Law.

8 *See* Mingyuan Wang, *Can the State's Visible Hand Prop Up a Stretch of Clear Sky for the China's Renewable Energy Industry?—Based on the Analysis of the Renewable Energy Law of the People's Republic of China*, 6 Mod. L. Sci. 155 (2007).

9 In the second meeting of the 11th National People's Congress in March 2009, the delegates introduced a bill to amend the Renewable Energy Law provision related to renewable energy electricity bidding. In 2008, 83 delegates introduced suggestions regarding promoting the development and utilization of renewable energy and improving the regulations and supporting policies that are considered as important suggestions by the Standing Committee of the National People's Congress. All of these bills and suggestions have explicitly stated that electric network programming and construction cannot meet demands for renewable energy electricity. The imperfections of the electrovalence and cost-sharing system and the problematic implementation of the supporting policies were drivers for amendment of the Renewable Energy Law.

10 In China, the price of electricity is highly regulated. To make sure that the grid companies are profitable and are willing to purchase the electricity generated by the renewable energy, the REL requires that when the purchase prices of the power generated by renewable energy exceed the power generated by conventional energy, then the grid companies will be reimbursed by the state government for the price discrepancy.

11 *See* Chen Tian, *The Amendment of the Renewable Energy Law of the People's Republic of China: To Strengthen the Legal Supports for Tackling Climate Change*, ChinaNews.com, Dec. 26, 2009, http://www.chinanews.com/gn/news/2009/12-26/2040165.shtml (last visited Sept. 23, 2013).

12 Article 11 provides:

> The administrative department for standardization under the State Council shall set and publish the technical standards of the State for grid-connected power generation with renewable energy and other standards of the State for the technology and products related to renewable energy, for which the technical requirements need to be uniform throughout the country.
>
> With regard to those technical requirements that are not covered by the standards of the State as mentioned in the preceding paragraph, the relevant departments under the State Council may establish relevant industrial standards, which shall be submitted to the administrative department for standardization under the State Council for the record.

13 Article 5 provides:

> The energy administration department under the State Council exercises unified control over the exploitation of renewable energy nationwide. The relevant departments under the State Council are responsible for administration of the work related to the exploitation of renewable energy within the limits of their respective duties.
>
> The energy administration departments of the local people's governments at or above the county level are responsible for the administration of exploitation of renewable energy within their respective administrative areas. The relevant departments of the local people's governments at or above the county level are responsible for administration of the work related to the exploitation of renewable energy within the limits of their respective duties.

14 These departments included the State Development and Reform Commission, the National Energy Leading Group, the Electric Power Supervision Committee, Ministry of Water Conservation, Ministry of Land and Resources, State Environmental Protection Administration, State Production Safety Supervision Bureau, Department of Commerce, State-Owned Assets Supervision and Administration Commission, Ministry of Railways, Ministry of Transit and Communications, the Ministry of Science, and the Agriculture Department.

15 The director of the National Energy Commission is Premier Wen Jiabao. The directors of the central government and the state ministries and commissions hold committee posts.

16 *See* Liangcun Xi, *The Reform Circles in the Establishment of the National Energy Commission*, Money.163.com, Jan. 28, 2010, http://money.163.com/special (last visited Sept. 23, 2013).

17 *See* Xiaoyan Zhu ed., Research on the Reformation of China's Power Control Mechanism in the Super-Ministry System 8 (Economic and Management Press 2009).

18 *See* Jiejun Yang, *The New Thinking in the Legislation of Our China's New Energy and Renewable Energy*, 1 Stud. L. & Bus. 96 (2008).

Overview of the 2013 Second Draft Amendments to the Environmental Protection Law of the People's Republic of China

by Daniel Fogarty

The *Environmental Protection Law of the People's Republic of China* (EP Law) is the main environmental legislative framework in the People's Republic of China (PRC).[1] On July 17, 2013, the National People's Congress (NPC), the highest legislative body in the PRC, released the *Draft Amendments to the Environmental Protection Law of the PRC* (Draft Amendments) for public comment.[2] If adopted, the Draft Amendments would be a welcome update to the EP Law, which was issued on December 26, 1987.

Main Revisions Under the Draft Amendments

At a policy level, the Draft Amendments affirm environmental protection as a basic policy of the state and set out a number of underlying principles on environmental protection: prioritizing prevention; encouraging public participation; and making polluters pay.[3] Along with these policy principles, the Draft Amendments contain fundamental changes to the EP Law, including increasing public disclosure requirements, supporting public participation in environmental impact assessments, increasing the scope and severity of penalties for polluters, and imposing greater obligations on various government authorities. This section examines some of the major proposed changes to the law.

Delineates the Responsibilities of Various Parties

The EP Law sets out in broad terms that all units and individuals have an obligation to protect the environment. As such, it fails to specify which parties bear responsibilities for the environment.

The Draft Amendments add more specificity to the EP Law by identifying the key parties responsible for environmental protection and setting out their respective obligations:

- The local people's government at all levels are responsible for environmental pollution in their respective administrative regions.
- Enterprises, public institutions, and other manufacturers and enterprises must prevent and reduce environmental pollution and will face liability for environmental pollution and ecological damage.
- Citizens must enhance environmental protection awareness and conscientiously fulfill the obligations of environmental protection.[4]

This is a significant step in clarifying the roles of various parties in environmental protection and laying the foundation for where liabilities will fall.

Increased Penalties

One common criticism of the EP Law is that it does not sufficiently deter violations. In some instances, under the existing environmental protection regime, it may be more cost-efficient to pollute and pay the requisite fine than to adopt measures to comply with environmental protection laws and regulations.

To strengthen the efficacy of the EP Law, the Draft Amendments impose stricter penalties on polluters in China for noncompliance. Polluters are subject to a fine that accumulates at a daily rate for failing to rectify illegal acts within a prescribed time line.[5] More significantly, the Draft Amendments do not set out a cap on the penalties, which could result in significant financial consequences for polluters.

In addition to increased fines, the Draft Amendments introduce potential criminal liabilities for entities that evade monitoring by discharging pollutants through covert means, such as concealed drains, seepage walls, or pits. In the absence of a crime, the person directly in charge and other personnel subject to direct liabilities will be punished in accordance with the law on penalties for public security administration, including administrative detention.[6] One possible criticism, however, is the implication that the covert act of evading monitoring may be deemed criminal based on its outcome, as opposed to the very act itself. To increase the deterrent effect of this provision, it may be more effective if the act of evading monitoring itself were subject to criminal liability.

Nevertheless, the revised provisions on penalties and potential criminal liabilities do represent a significant step toward addressing the "low-cost-of-compliance" issue.

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Greater Scrutiny Over Local Authorities

The Draft Amendments place greater responsibility on local authorities for pollution and environmental problems in their respective administrative regions.[7] Local authorities who do not fulfill this responsibility may face administrative sanctions and be removed from their post.[8]

In addition, the Draft Amendments penalize government personnel who engage in certain acts, such as granting administrative licenses to unqualified candidates, covering up illegal environmental acts, failing to promptly investigate reports on environmental incidents resulting from illegal acts, or failing to disclose environmental information that should be disclosed in accordance with the law. These local authorities may be subject to a range of administrative penalties, including removal from office. To add an additional layer of oversight responsibility to the local authorities' actions, the Draft Amendments also state that the primary person in charge of the relevant department may be subject to forced resignation.

These amendments may be an attempt to address concerns of local protectionism, where local governments fail to enforce environmental laws and regulations in order to promote and protect local companies, which are often a primary source of revenue for the local government.

Preferential Policies

On the flip side of harsher penalties, the Draft Amendments also give greater encouragement to entities that are environmentally friendly and operate in accordance with the law. For instance, entities that have adopted measures to further reduce pollution emissions, have demonstrated pollution reduction, and have a record of environmental protection may be entitled to certain preferential tax and loan policies under the Draft Amendments.[9]

The proposed regulation on tax and loans is accompanied by a government policy that the State Council issued in early September of this year. The policy stipulates that loans should not be made to projects that have not passed the environmental assessment and that no electricity or water should be offered to such projects.[10]

Openness in Environmental Information and Public Participation

The Draft Amendments contain stronger provisions on public disclosure of environmental protection violations, public participation in environmental impact assessments, and penalties for polluters.

These provisions are set out in an entirely new chapter[11] addressing environmental information disclosure and public participation. The chapter includes provisions requiring companies to publicly disclose their major emissions and pollution information,[12] as well as provisions mandating public participation in the environmental impact assessment process for construction projects.[13]

Further, if a company fails to rectify a pollution issue, it may be subject to increased penalties. While similar regulations exist in Shenzhen and Chongqing municipalities, it is a significant step to see this regulation at the national level.[14]

These new provisions on information disclosure and public participation are fairly significant, considering that environmental impact assessments on construction projects have historically not been made public in many areas of China. Opening up these projects to public supervision may be an attempt to mitigate against mass unrest or public protests over the lack of information and poor transparency in the decisionmaking process for construction projects in an affected community or region. This new legislative direction would be a positive step toward mitigating or preventing the occurrence of environmental pollution incidents while giving the community in the affected area a stake in the well-being of their environment.

Limitation on Right to File Public Interest Lawsuits

A potentially controversial addition to the Draft Amendments is the stipulation that only the All-China Environment Federation (ACEF) may file public interest lawsuits relating to the environment with Chinese courts.[15] This could be interpreted as an attempt to severely limit environmental public interest litigation in China. Considering the potential scale of violations in environmental protection laws and regulations in China, it is unclear whether the ACEF, as the sole body permitted to bring environment-related public lawsuits, would have the resources and capacity to fulfill this function.

The concerns over the ACEF's role in public lawsuits are compounded by the lack of clarity as to the true nature of the organization. According to some reports, it is a government-created organization affiliated with the Ministry of Environmental Protection with ties to the business community. If this is the case, then the ACEF may not necessarily be a nongovernmental

organization nor an independent entity and, as such, not well-positioned to effectively represent the interests of litigants in a public lawsuit.[16] Further, the dubious affiliations of the ACEF may also likely strike some people as being uncomfortably reminiscent of similar organizations in China, such as the Red Cross Society of China, which are mired in controversies.[17] The Red Cross Society of China, for instance, suffers from a number of credibility issues and bad publicity; in one notable incident, a young staffer posted a photo on a popular microblog of herself next to an expensive car, which lead to public outrage and claims of possible misuse of the organization's funds.

Summary

If passed, the Draft Amendments would represent a significant commitment by the PRC government to address the critical issue of environmental protection in China. The Draft Amendments would also provide a much needed update to the law, which was issued in 1987—a time when the environmental health of China was in a different state. Unlike previous legislative attempts, perhaps the intent behind the Draft Amendments will translate into action if and when they are implemented.

Endnotes

1 *Available at* http://www.china.org.cn/english/government/207462.htm.
2 The comment period ended on August 18, 2013. A first draft of the amended law was released for public comment in August of 2012. The official website of the National People's Congress provides the draft amendments together with a comparison of the Environmental Protection Law with and without amendments *See* http://www.npc.gov.cn/npc/xinwen/lfgz/flca/2013-07/17/content_1801189.htm (in Chinese only; visit translate.google.com for a translation).
3 Draft Amendments, art. 3.
4 *Id.* art. 4.
5 *Id*. art. 49.
6 *Id*. art. 30.
7 *Id.* art. 4.
8 *Id*. art. 43.
9 *Id*. art. 13.
10 Notice of the State Council Regarding Issuance of Major Air Pollution Control Action Plan, issued by the State Council and effective September 10, 2013.
11 Draft Amendments, ch. 5, arts. 43 to 48.
12 Draft Amendments, art. 33.
13 *Id*. art. 34.
14 Chongqing Municipality Environmental Protection Regulations, issued by the Chongqing Municipality People's Representative Congress Standing Committee, effective September 1, 2007; Article 111; Shenzhen Special Economic Zone Environmental Protection Regulation, issued by the Shenzhen City People's Representative Congress Standing Committee, effective January 1, 2010; Article 69.
15 Draft Amendments, art. 36.
16 *See* SONG Yangbiao & WU Chen, *ACEF Responds to Scepticism Over "Anti-Monopoly Public Interest Litigation": "We Will Not Go At It Alone, Nor Venture To Let It Go"*, Time Weekly, July 11, 2013, at http://www.time-weekly.com/story/2013-07-11/130256.html (in Chinese only; no translation available).
17 *See Thousands of Thumbs Down for Chinese Red Cross*, Wall St. J., Apr. 20, 2013, at http://blogs.wsj.com/chinarealtime/2013/04/20/earthquake-in-sichuan-charity-organization-has-china-seeing-red/.