

EPA  
Office of General Counsel  
China Environmental  
Law Initiative

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General Counsel

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# Topics

- (1) The Relevance of China's Environmental Law Framework
- (2) The State of China's Environmental Law Framework
- (3) The EPA OGC China Environmental Law Initiative

# The EPA OGC China Environmental Law Initiative

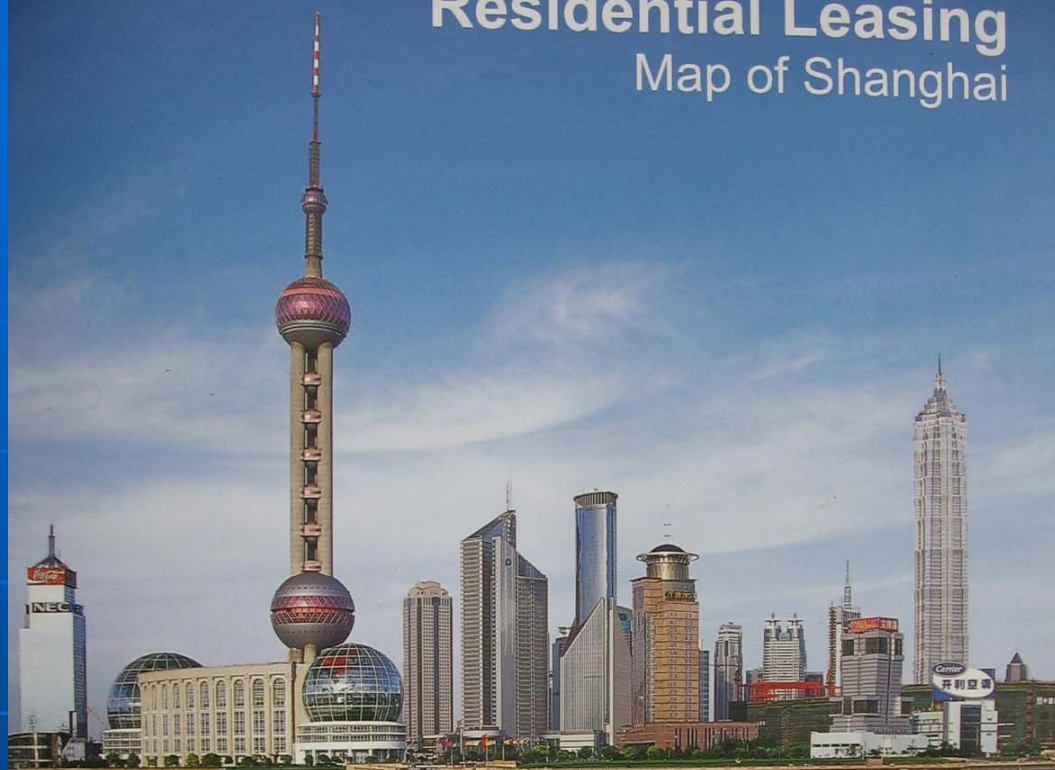
- (1) Capacity building for a strong environmental framework in China
- (2) Cooperation on international environmental issues
- (3) Communication of China's environmental law framework to U.S. businesses and NGOs

# Topics Discussed in China

- (1) The Development of American Environmental Law
- (2) Federalism and Environmental Law
- (3) What the United States Can Learn from China
- (4) Alternative Dispute Resolution
- (5) Dissecting China's Implementation of Environmental Laws

# State of China Environmental Law

# Residential Leasing Map of Shanghai



savills  
第一太平戴維斯







**Environmental  
Law  
Framework**





# China's simultaneous challenges

## The Past

- National Environmental Policy Act
- CERCLA (Comprehensive Emergency Response, Cleanup, and Liability Act)
- Clean Water Act
- Clean Air Act
- Toxic Substances Control Act (TSCA)
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

## The Future

- Theme is sustainability
- Focus is on improving environment for future
- Climate change
- Nanotechnology
- Endangered species protections
- Cleaner energy
- Alternative dispute resolution
- International capacity building



















# 有机垃圾

Organic Garbage



有机垃圾：果皮、菜皮、剩饭  
菜等。

# 有害垃圾

Pernicious Garbage

Special Reclamation Office  
专用回收孔



有害垃圾：废电池、废荧  
光灯管、水银温度计、废  
油漆桶、过期药品等。

# 无机垃圾

Inorganic Garbage



无机垃圾：废纸张、废塑料、废金属、  
废玻璃、废织物等。



浦 景 废 品 交 投 站  
Pu Jing Recyclable Materials Collection

地 址：复兴东路601-603号

电话收废：63200310

收废上门

上门收废



























# Observations

- Core Framework
- Motivation
- Messaging
- Authenticating
- Federalism
- Prioritizing

# Core Framework

- Since 1992 Rio Summit, China has enacted environmental laws on air pollution, water pollution, solid waste, and clean production
- Many provisions are vague; more akin to guidance
- Questions regarding adaptation to China's circumstances
- Procedural issues related to enforcement and public participation

# Observations

- Core Framework
- Motivation
- Messaging
- Authenticating
- Federalism
- Prioritizing



# Observations

- Motivation
- Messaging
- Authenticating
- Federalism
- Prioritizing



# Federalism

## ■ Themes

- Power typically begins with federal government
- Federal rules and regulations serve as floor
- States typically have power to issue more protective rules
- Policy is to delegate implementation to states where possible
- Federal government retains oversight role
- Federal and state governments partner for enforcement

# Observations

- Motivation
- Messaging
- Authenticating
- Federalism
- Prioritizing

# Positive trends

- Focus on implementation
- Public participation
- Accountability of EPBs



# Strengths Observed in China

- “Head Start”
- Constitutional Directive: Articles 9 and 26 provide State is to protect environment and ensure rational use of natural resources
- Environmental Protection Law: design, construction and operation of pollution control
- Environmental Impact Assessments apply to private projects
- Government appears to have strong response authorities
- Land use planning appears to be a national focus
- Longer Term Planning such as Five Year Legislative Plan

# OGC's China Environmental Law Project

- Website
  - Woodrow Wilson Institute
  - American Chamber of Commerce in Shanghai
  - University of Maryland Law School
  - George Washington Law School
- Training on Environmental Conflict Resolution
- Collaboration with SEPA's Department of Law and Policy
- December 2007 MOU Annex: "Development, Implementation, and Enforcement of Environmental Law."
- Key theme and challenge: "A Different Kind of Federalism"
- April Symposium
- Strategic Economic Dialogue



## Office of General Counsel

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You are here: [EPA Home](#) » [Office of General Counsel](#) » EPA-China Environmental Law Program

# EPA - China Environmental Law Program

Office of General Counsel Home  
EPA - China Environmental Law Program  
Additional Resources

### Contents

- [Program Description](#)
- [New Developments in Chinese Environmental Law](#)
- [Upcoming Events](#)
- [Legal Resources](#)
- [China Environmental Links](#)
- [Related EPA Links](#)



### Program Description

China has been working with great determination in recent years to develop, implement, and enforce a solid environmental law framework. Chinese officials face critical challenges in effectively implementing the laws, clarifying the roles of their national and provincial governments, and strengthening the operation of their legal system.

After meeting with Chinese environmental officials in Beijing, Shanghai, and Guangzhou in September, 2007, EPA General Counsel Roger Martella decided to encourage a continuing dialogue between the U.S. and China on environmental law by launching the EPA-China Environmental Law Program. The goals of the program include:

- Sharing EPA's legal experience and expertise to help improve China's environmental health.
- Sharing information useful to U.S. entities with business or other stakes in how China addresses environmental issues.





## 美国国家环境保护局

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# 美国环保局-中国环境法合作项目

### 目录

- [项目介绍](#)
- [合作机构](#)
- [中国环境法的新发展](#)
- [活动预告](#)
- [法律资源](#)
- [中国环境链接](#) 英文版 ▶
- [电子邮件更新](#) 英文版 ▶
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### 项目介绍 *Description of Initiative*

中国最近几年来一直致力于建立、落实和执行完整的环境法律框架。中国官员在有效实施法律、明确国家和省级政府角色、加强法律制度的运作等方面仍面临严峻的挑战。

2007年9月，美国环境保护局法律总顾问罗杰马特拉在北京、上海和广州分别与中国环保官员进行了交流，决定实施中美环境法合作项目，鼓励中美就环境法问题继续对话。该项目的目标如下：



环保局总法律顾问罗杰马特拉 (左) 和国家环保总局政策法规司副司长别涛

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- December 2007 MOU Annex: "Development, Implementation, and Enforcement of Environmental Law."
- Key theme and challenge: "A Different Kind of Federalism"
- April Symposium
- Strategic Economic Dialogue

# ADR TOPICS

- Session 1 – Overview of Environmental ADR
  - Environmental Alternative Dispute Resolution (ADR)
  - What are the potential benefits and results of ADR?
  - What are the forms of ADR?
- Session 2 – Applications of Environmental ADR
  - What are some applications of ADR to environmental issues?
  - What have we learned about use of ADR?
- Session 3 – Case Examples of Environmental ADR
  - Use of ADR to prevent disputes
  - Use of ADR to settle disputes and litigation
  - Use of ADR to execute judgment
- Session 4 - How do you know when and what kind of ADR to use?
  - “Situation assessment” help design appropriate application of ADR?
  - Workshop Exercise



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