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# **China Environmental and Regulatory Trends Update**

**China Environment Forum  
Woodrow Wilson International Center for Scholars**

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# China: General Regulatory Trends Overview

- Continued emphasis on legislative drafting and rulemaking rather than implementation of existing laws.
- Development of limited, albeit welcome, government initiatives aimed at assessing how laws are being implemented.
- Creation of “uniquely” Chinese approaches in regulatory programs, though such programs reflect characteristics of significant international (e.g., export-market) policies.
- Preference for mandatory, pre-market testing and certification or approval programs to ensure compliance, rather than risk-based compliance assurance mechanisms.
  - Including preference for use of domestic testing labs where testing is required.
- Continued “mission creep” among key national-level agencies, contributing to massive growth in environmental lawmaking, inter-agency disputes over lawmaking jurisdiction, and potential overlap or conflict between agency rulemakings in the environmental area (and need for coordination).

# China: General Regulatory Trends Overview

- Surge in the development of product-related environmental measures.
- Tendency to provide limited notice and comment opportunities, if any, on draft laws, and limited, if any, compliance preparation time between promulgation and effective dates of laws.
- Ongoing support of a “planning approach” to policymaking, and the increasing tendency to share those plans (including agency rulemaking, NPC legislative, and other lawmaking planning documents) nonetheless, for those accessing these documents, increases stakeholder ability to understand key policymaking trends and priorities.
- Heightened sensitivity over product quality, resulting in increase of market entry-approval requirements, tendency to interpret laws in more, rather than less, stringent fashion.
  - This has resulted in shut down/failure of a number of enterprises, but may also contribute to an increasing sensitivity to the importance of developing an institutional “legal compliance culture” necessary to ensure quality, safety, etc.

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  - This has resulted in shut down/failure of a number of enterprises, but may also contribute to an increasing sensitivity to the importance of developing an institutional “legal compliance culture” necessary to ensure quality, safety, etc.
- Laudable focus on government capacity building and internal (inter-governmental) investigations in the enforcement area, although enforcement efficacy still suffers from infrastructural, personnel, political and other barriers.
- Continued perception that foreign enterprise compliance issues are a priority (sometimes with media and political reinforcement).

# China: Environmental Law Trends Overview

- Development of more stringent waste controls, particularly measures governing import, export and domestic management of hazardous waste.
- Expansion of product labeling programs, particularly those addressing energy efficiency labeling.
- Increased environmental oversight of companies that are publicly listed in China.
- Establishment of enhanced provisions supporting citizen suits aimed at redressing environmental harms.
- Clarification of the nature of environmental information that the Ministry of Environmental Protection may disclose to the public, in response to the Regulations on Publication of Government Information (issued April 5, 2007 and effective May 1, 2008).
- Drafting of training programs, practices, and procedures for soil and groundwater contamination identification, remediation and liability determination.

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- Addition of “missing listings” to the China Inventory of Existing Chemical Substances (i.e., listings for chemical substances produced or used in China prior to October 15, 2003).
- Expansion of the government green procurement program.
- Rapid development of “reduce, reuse, and recycle” (“3R”) programs, including packaging controls.
- Addition of programs aimed at securing environment, health and safety approvals for facility operation, such as those involving safety impact assessment, health impact assessment, and energy use evaluation, modeled after the existing “environmental impact assessment” program.
- Growth in nongovernmental organization (“NGO”) campaigns focused on disclosure/reporting of enterprise violations of Chinese environmental laws, or disclosure of enterprise environmental policies and practices.

# China: Environmental Law Trends Overview

- Growth of citizen-at-large concern over environmental issues in the community and in the policymaking process.
- Increase in environmental litigation, including class actions and increasing judicial experience on matters such as compensation for environmental contamination harms.
- Prioritization of environmental impact assessment of construction projects as a key means for government control of the environmental aspects of industrial and other projects.

**Thank You!**

**谢谢!**

**Happy New Year!**

**新年快乐!**

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