

COUNTRY REPORT: THE PEOPLE'S REPUBLIC OF CHINA**The Prevention and Control of Atmospheric Pollution in China**

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Introduction: Air Pollution in China

The People's Republic of China has recently suffered episodes of severe air pollution. According to statistics from the Ministry of Environmental Protection, long-lasting and large-scale hazy weather affects 600 million people living in 17 provinces covering one quarter of China's total land mass.¹ In response to the intense pressure on the Chinese government to address the issue, the Ministry of Environmental Protection and the General Administration for Quality Supervision and Inspection and Quarantine (AQSIQ) issued the *Ambient Air Quality Standards* ('the Standards') on 29 February 2012.² The Standards take effect nationwide from 1 January 2016, however provincial governments can adopt them before then. The *Standards* include two classes of limit values on the density of air pollutants. Class 1 standards apply to special regions including reservation parks, scenic areas and other specially protected areas. Class 2 standards apply to all other regions, such as urban, rural, and industrial areas.³ According to the Standards, the air quality in nearly two thirds of the 330 major cities fails to meet Class 2 standards.⁴

On 4 November 2013, the China Meteorological Administration and the Chinese Academy of Social Sciences released the *Annual Report on Actions to Address Climate Change* ('the Green Book').⁵ The Green Book reported a constant increase in the number of smog days over the last five decades. It also stated that China experienced more smog days in the first

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¹ Found at: http://news.xinhuanet.com/energy/2013-06/05/c_124812258.htm.

² Ambient Air Quality Standards (GB 3095-2012), available at <http://kjs.mep.gov.cn/hjbhzbz/bzwb/dqhjbh/dqhjzlbz/201203/W020120410330232398521.pdf>. It replaces Ambient Air Quality Standards (GB 3095-1996).

³ Ibid, at 2-3.

⁴ Found at: http://www.mep.gov.cn/zhxx/hjyw/201302/t20130201_245846.htm.

⁵ Found at: <http://www.cma.gov.cn/2011xzt/2013zhuant/20131107/>.

10 months of 2013 than in any other similar period since 1961 (29.9 in total).⁶ Severe smog can affect air quality and human health, and cause economic loss for businesses affected by the forced closure of roads, airports and schools. The Green Book linked increasing smog days to changing weather patterns and a rise in human fuel consumption and air polluting activities.

Relevant Law and Policy

Air pollution in China is primarily regulated by the *Law on the Prevention and Control of Atmospheric Pollution 1987* ('the LPCAP').⁷ The aim of the LPCAP is to prevent and control air pollution. The LPCAP was last amended in 2000. Some affected people are concerned that LPCAP provisions are based on out-of-date data. For example, the LPCAP focuses on regulating activities that release large particulate matter into the atmosphere, such as coal burning and certain waste disposal.⁸ The LPCAP is less concerned with regulating activities that release fine particulate matter into the air, such as metal processing and smelting. This raises concerns for some affected people who feel that fine particulate matter may pose a greater risk to human health than large particulate matter. The Ministry of Environmental Protection began a review of the LPCAP in 2006. The Ministry submitted a revised version of the law to the State Council in 2010. On 31 October 2013, the 12th National People's Congress Standing Committee announced that the revised version was scheduled for deliberation within the Committee's term of office.⁹

In addition to the LPCAP, there are numerous policies dealing with air pollution in China. On 29 October 2012, the State Council published its 12th *Five-Year Plan on the Prevention and Control of Atmospheric Pollution in Key Areas*. The Plan addresses fine particulate matter and introduces a new policy focus on improved air quality. This indicates a shift away from a focus on control of pollution causing activities.¹⁰ On 10 September 2013, the State Council issued the *Action Plan on the Prevention and Control of Atmospheric Pollution* ('the Action Plan').¹¹ The broad aim of the Action Plan is to improve China's overall air quality within five years. Other aims include a significant reduction in smog days and a dramatic improvement in regional air quality. Targeted regions include Beijing-Tianjin-Hebei, Yangzi River Delta and

⁶ Found at: <http://society.people.com.cn/n/2013/1104/c86800-23427944.html>.

⁷ As amended by the Standing Committee of the National People's Congress respectively in 1995 and 2000.

⁸ Found at: http://www.gov.cn/ziliao/flfg/2005-08/05/content_20945.htm.

⁹ Found at: http://www.npc.gov.cn/npc/xinwen/syxw/2013-10/31/content_1812101.htm.

¹⁰ Found at: http://www.mep.gov.cn/gkml/hbb/bwj/201212/t20121205_243271.htm.

¹¹ Found at: http://www.gov.cn/zwggk/2013-09/12/content_2486773.htm.

Pearl River Delta. The Action Plan sets 2017 as the achievement date for two major goals: a 10 percent reduction in concentrations of large particulate matter in major cities; up to a 25 percent decrease in concentrations of fine particulate matter in targeted regions.

The Action Plan contains 10 major sections. Each section sets out measures to address specific problems or further certain goals. The following provides a brief overview of each section.

Section 1: Increase the effort of comprehensive control, reduce multi-pollutants emissions

The aim of Section 1 is to reduce the discharge of pollutants by:

- regulating the use of small coal-fired boilers
- accelerating desulfurization, de-nitrification and dust removal
- retrofit projects in key industries
- improving the quality of fuels
- controlling urban dusts
- eliminating high polluting yellow-sticker vehicles and old vehicles

Section 2: Adjust and optimize the industrial structure, promote industrial upgrading and restructure

This section introduces measures to:

- regulate new capacities in high energy consuming and high polluting industries
- accelerate the elimination of backward productivity in 21 key industries, such as iron and steel, cement, electrolytic aluminium, glass, *et cetera*
- reduce excess capacity
- halt illegal production projects in industry with over capacity

Section 3: Accelerate industrial technology transformation, improve the innovation capability

Section 3 promotes:

- the strengthening of scientific and technological development and promotion
- clean production
- a 30 percent reduction of emission intensity in key industries by 2017
- the development of a circular economy
- the fostering of energy saving and environmental protection industries

Section 4: Accelerate the adjustment of energy structure and increase clean energy supply

The plan here is to:

- limit the overall consumption of coal
- decrease the share of coal in total energy consumption to less than 65 percent by 2017
- accelerate clean energy utilization by increasing the supply of alternative energies like natural gas and coal-based methane
- promote the clean use of coal
- improve energy efficiency

Section 5: Strengthen energy-saving environmental thresholds and optimize industrial layout

Section 5 aims to strengthen the use of energy-saving environmental protection indicators by regulating industry actions. For example, projects which have not passed energy audits and environmental impact assessments will not be approved for construction, provided with land or credit support or supplied electricity or water.

Section 6: Elaborate the role of market mechanism and improve environmental economic policies

Tasks here include:

- the active promotion of new energy-saving and emission reduction mechanisms that integrate constraints with incentives
- increasing pollution charges
- encouraging banking and financial institutions to increase credit support for projects concerning the prevention and control of air pollution

Section 7: Integrate law and regulation systems, supervise and manage strictly based on the law

Section 7 is designed to achieve the Section 2 aim of 'promoting industrial upgrading and restructure' through the improvement of law and regulations. The focus here is on accelerating revision of the LPCAP and:

- considering possible criminal penalties for those who cause malicious pollution
- accelerating the establishment and revision of emission standards in key industries
- strictly implement environmental disclosure requirements

- publishing urban air quality ranking at provincial level

Section 8: Establish a regional corporation mechanism and integrate regional environmental management

This section establishes a 'Beijing-Tianjin-Hebei-Yangzi River Delta-Pearl River Delta Regional Corporation Mechanism'. The Regional Mechanism allows provincial governments and State Council to:

- collaboratively resolve significant regional environmental problems
- better implement air pollution prevention and control measures
- report on the progress of prevention and control measures
- determine periodical work requirements, priorities and major tasks

Section 9: Establish monitoring and warning system, and properly cope with heavy pollution weather

Section 9 requires local governments to include a Heavy Pollution Weather Emergency Response in their emergency management system. Responses may include:

- production limits
- temporary closure of heavy polluting enterprises
- temporary closure of primary and secondary schools
- control over motor vehicle use
- relevant meteorological interventions

Section 10: Clarify the responsibilities of the government and society, encourage the public to participate in environmental protection

Section 10 vests local governments with responsibility for air quality within their jurisdictions. It requires relevant governmental sectors to closely cooperate with one another and to take unified action against air pollution. It acknowledges the role of enterprises and the public in tackling air pollution.

Joint Efforts to Combat Air Pollution

The Action Plan is the Chinese government's toughest plan so far to combat air pollution. It is likely to serve as the political benchmark for the nation's efforts to improve air quality.

Several challenges may arise in the implementation of the Plan. Firstly, implementation requires coordination and cooperation at the national, provincial, municipal and public level. In addition, implementation may require significant economic investment and industry reform. Consequently, it is uncertain to what extent the Action Plan will be implemented and to what extent it will deliver practical value to the people of China. On the positive side, the Ministry of Environmental Protection argues that the Plan is likely to benefit some industries, such as manufacturing and clean energy, and increase Gross Domestic Product by 1942.2 billion RMB (\$319 billion).¹²

Just after the Action Plan was published, the Ministry of Finance allocated 5 billion RMB (\$820 million) to the elimination of air pollution in six cities and provinces including Beijing, Tianjin, Hebei, Shanxi, Shangdong, Neimenggu and Hebei.¹³ Several national Ministries and administrative bodies cooperated to develop and issue *Detailed Rules on the Implementation of the Action Plan in Beijing-Tianjin-Hebei and Adjacent Regions*. The Detailed Rules specifically address actions to reduce fine particulate matter. On 5 September 2013, Hebei province issued a document outlining 10 specific measures to eliminate air pollution.¹⁴ One of these measures is the establishment of an Environmental Police team comprised of public security and environmental protection personnel.¹⁵ Regional governments have also worked to review or create laws that complement the Action Plan. For example, the Shanghai Municipal Council has passed the *Measures for the Implementation of LPCAP*. The draft document is yet to be deliberated by the Standing Committee of Shanghai Municipal People's Congress.¹⁶ On 20 November 2013, the Standing Committee of Beijing Municipal People's Congress considered the *Regulations on the Prevention and Control of Atmospheric Pollution in Beijing* for the third time. The *Regulations* will be deliberated by Beijing Municipal People's Congress in early 2014.¹⁷

As recognized by Section 10 of the Action Plan, air pollution cannot be eliminated without public participation. Effective public participation requires proper access to relevant

¹² Found at: http://news.xinhuanet.com/fortune/2013-11/27/c_125768942.htm.

¹³ Found at: http://www.gov.cn/jrzq/2013-10/14/content_2506559.htm.

¹⁴ Special Projects and Measures, found at: <http://env.people.com.cn/n/2013/0905/c1010-22811817.html>.

¹⁵ Ibid. The recent progress of the projects can be found at http://www.gov.cn/gzdt/2013-10/13/content_2505855.htm.

¹⁶ Found at: <http://fzb.sh.gov.cn/fzbChinese/page/legalinfo/locallegalinfo24449.htm>.

¹⁷ Found at: http://news.xinhuanet.com/local/2013-11/23/c_118265138.htm.

information. To facilitate this access, the Chinese government has set up an official air quality monitoring programme and made relevant data available to the public.¹⁸

Conclusion

Air pollution poses an incredible challenge for China. The recently published Action Plan looks at the prevention and control of air pollution at the national level. Its implementation depends upon different groups at different levels working successfully together. These groups include:

- central, provincial and municipal governments
- industry bodies
- commercial entities
- the public

Should this cooperation be achieved, the Action Plan can play an important role in the elimination of air pollution. The next step is to consider translating this policy into law. The stabilization, nominalization and institutionalization of air pollution control and prevention also depend upon the strengthening of environmental law. China is currently in the process of revising its *Environmental Protection Law*. These revisions may help address China's air pollution problem. Similarly, the revised LPCAP is likely to have a significant impact on China's approach to the problem of air pollution.

¹⁸ Found at: <http://113.108.142.147:20035/emcpublish/>; China National Environmental Monitoring Centre (CNEMC) under the auspices of the Ministry of Environmental Protection started to publish detailed information on the air quality of 74 national-wide cities from 28 December 2012 through its Real-Time National Urban Air Quality Publishing Platform; Report on the 74 Cities' Air Quality for October 2013, found at http://www.cnemc.cn/publish/totalWebSite/news/news_38965.html.; Real-time statistics on the density of SO₂, NO₂, CO, O₂-1h, O₂-8h, PM₁₀, PM_{2.5} and Air Quality Index are accessible to the public at any time. The CNEMC also publishes monthly report on the monitored cities; also found at: http://www.mep.gov.cn/zhxx/hjyw/201309/t20130904_259477.htm.; In addition, China Meteorological Administration started to provide the public with forecast on the meteorological conditions for air pollution from 1 September 2013.